



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

खण्ड 18]

शिमला, शनिवार, 7 नवम्बर, 1970/16 कार्तिक, 1892

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7 नवम्बर, 1970/16 कार्तिक, 1892 को समाप्त होने वाले सप्ताह में निम्नलिखित विज्ञप्तियां 'असाधारण राजपत्र, हिमाचल प्रदेश' में प्रकाशित हुईं:—

विज्ञप्ति का संख्या	विभाग का नाम	विषय
No. 14-13/68-LSG, dated 23rd October, 1970.	Local Self Government Department	Amendments made in the Water Supply Bye-laws by the Municipal Committee, Dalhousie.
No. 1-6/66-LSG, dated 27th October, 1970.	-do-	Amendments in the Service Rules for Sweepers by the Municipal Committee, Dharamsala.
No. 7-27/69-LSG, dated 27th October, 1970.	-do-	Declaring the local area comprising Ghumarwin in Bilaspur district, as Notified Area.
No. 7-27/69-LSG, dated 27th October, 1970.	-do-	Extending certain sections of the Himachal Pradesh Municipal Act, 1968 to the Notified Area Committee, Ghumarwin.
No. 7-27/68-LSG, dated 27th October, 1970.	-do-	Fixing the number of members of the Notified Area Committee, Ghumarwin.
No. 7-27/69-LSG, dated 27th October, 1970.	-do-	Appointing Tehsildar, Ghumarwin as <i>ex-officio</i> President of the Notified Area Committee, Ghumarwin.
No. 7-27/69-LSG, dated 27th October, 1970.	-do-	Appointing official and non-official members to the Notified Area Committee, Chumarwin.

भाग 1—वैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के उप-राज्यपाल और हिमाचल बेंच आफ़ देहली हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि

देहली हाई कोर्ट NOTIFICATION

Simla-1, the 26th October, 1970

No. DHC. (H)/68-3145/70.—It is hereby notified for general information that the Delhi High Court, Himachal Bench, will remain closed on account of "Diwali" festival as local holiday on 30th October, 1970 (Friday).

By order of the Court,
V. P. BHATNAGAR,
Deputy Secretary.

हिमाचल प्रदेश सरकार APPOINTMENT DEPARTMENT NOTIFICATIONS

Simla-2, the 21st October, 1970

No. 10-2/68-Appnt.—In exercise of the powers conferred by sub-section (1) of section 12 of the Code of Criminal Procedure, 1898 (Act V of 1898), the Administrator (Lieutenant Governor), Himachal Pradesh, is pleased to appoint Shri Nathu Ram, General Assistant, District Kinnaur, to be the Magistrate of the Second Class, with all the powers of a Magistrate Second Class, under the said Code, to be exercised within the local limits of Kinnaur district, with immediate effect.

S. K. ALOK,
Joint Secretary.

Simla-2, the 26th October, 1970

No. 10-2/68-Appnt.—In exercise of the powers conferred by sub-paragraph (1) of paragraph 18 of the Himachal Pradesh (Courts) Orders, 1948, the Administrator (Lieutenant Governor), Himachal Pradesh, in consultation with Delhi High Court, is pleased to appoint Shri Nathu Ram, General Assistant, District Kinnaur, to be the Subordinate Judge, with immediate effect and further directs that—

- under paragraph 21 of the said order, the pecuniary jurisdiction of the said officer to be exercised in original civil suits shall extend upto Rs. 500 (Rupees five hundred only); and
- under paragraph 22 of the said order, the local limits of the jurisdiction of the said officer, shall be the whole of Kinnaur district.

PRAKASH CHAND,
Joint Secretary.

ANIMAL HUSBANDRY DEPARTMENT NOTIFICATION

Simla-4, the 27th October, 1970

No. 2-11/70-AH (Sectt.).—Whereas it appears to the Lieutenant Governor (Administrator) Himachal Pradesh that land is likely to be required to be taken by the Animal Husbandry Department at public expense for a public purpose, namely for establishment of a Milk Chilling Centre under Mandi Milk Supply Scheme at Sidhiani, District Mandi, it is hereby notified that the land in the locality described below in the specification is likely to be acquired for the said purpose.

2. This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894 as applied to Himachal Pradesh to all whom it may concern.

3. In exercise of the powers conferred by the said provision, the Lieutenant Governor (Administrator),

Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted thereunder.

4. Any person interested, who has any objection to the acquisition of any land in the locality may, within thirty days of the publication of this notification, file an objection in writing before the Collector, District Mandi.

SPECIFICATION
District: MANDI Tehsil: SADAR

Village	Khasra No.	Area Big. Bis. Bisw.
SIDHIANI	28/1, 41, 44/1, 41/1/1, 43/1 and 40/1.	0 12 1

P. K. MATTOO,
Secretary.

FINANCE DEPARTMENT OFFICE ORDER

Simla-2, the 27th October, 1970

No. Fin. 10-381/57-II.—In exercise of the powers vested in him under Supplementary Rule, 191, the Lieutenant Governor, Himachal Pradesh, is pleased to declare the Revenue Assistant, Chamba as Controlling Officer in respect of Class III and IV employees of Election Department in Chamba district in place of Deputy Commissioner, Chamba, under head '18—Parliament/State and Union Territory Legislatures-C-Elections' for the purpose of T.A. with immediate effect.

P. R. MAHAJAN,
Secretary.

GENERAL ADMINISTRATION DEPARTMENT NOTIFICATIONS

Simla-2, the 21st October, 1970

No. 16-15/69-GAD-I.—In continuation of this Government notification of even number, dated the 3rd November, 1969, it has been decided that the birthday centenary of Deshbandhu Chittaranjan Das, which falls on Thursday the 5th November, 1970, corresponding to Kartika 14, 1892 (Saka), will be observed as public holiday in the public offices under the Himachal Pradesh Government.

Simla-2, the 21st October, 1970

No. 16-15/69-GAD-I.—In continuation of this Government notification of even number, dated the 3rd November, 1969, it has been decided that birthday centenary of Deshbandhu Chittaranjan Das, which falls on Thursday the 5th November, 1970, corresponding to Kartika 14, 1892 (Saka), will be observed as public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881

N. C. KAUSHAL,
Under Secretary,
for Chief Secretary.

HEALTH AND FAMILY PLANNING DEPARTMENT NOTIFICATION

Simla-2, the 27th October, 1970

No. 1-14/65-Med. (II).—In exercise of the powers conferred upon him under section 48 (1) of the Land Acquisition Act, 1894, the Lieutenant Governor, Himachal Pradesh is pleased to withdraw from the

proceedings initiated for the acquisition of 3-4 bighas of land in village Kotgarh, sub-tehsil Kumarsain, District Mahasu vide notification No. 6-99/60-Rev. I, dated the 6th July, 1960 and 6-99/60-Rev. I, dated the 12th February, 1962 under section 4 and 6 respectively of the said Act, for the construction of Medical Department Staff Quarters attached to Civil Hospital.

By order,
H. R. MAHAJAN,
Secretary.

LAW DEPARTMENT NOTIFICATION

Simla-2, the 22nd October, 1970

No. 4-27/70-LR.—In exercise of the powers vested in him under section 492 of the Code of Criminal Procedure, the Administrator (Lieutenant Governor), Himachal Pradesh is pleased to appoint Shri Bhim Sen, Advocate, Simla, for filing and conducting a revision on behalf of the State in the Court of the District and Sessions Judge, Simla, Sirmur and Bilaspur districts at Simla against the judgement dated the 31st March, 1970 of the Magistrate 1st Class (R.A.) Sirmur district, Nahan in case State *Versus* Gurdial Singh discharging the accused of the charge under sections 7/16 of the prevention of Food Adulteration Act, 1954.

JOSEPH DINA NATH,
Under Secretary (Judicial).

MULTIPURPOSE PROJECTS AND POWER DEPARTMENT NOTIFICATION

Simla-2, the 24th October, 1970

No. 2-38/70-MPP (Sectt).—Whereas it appears to the Lieutenant Governor, Himachal Pradesh that land is likely to be required to be taken by the Himachal Pradesh Government at the public expense for a public purpose, namely for the construction of store shed, it is hereby notified that land in the locality described below is likely to be acquired for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894 to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Lieutenant Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested, who has any objection to the acquisition of the said land in the locality may, within thirty days of the publication of this notification, file an objection in writing before the Collector of Land Acquisition, Bilaspur, Mahasu and Simla districts, Simla-9.

SPECIFICATION

District: BILASPUR Tehsil: SADAR BILASPUR

Village	Khasra No.	Area Big. Bis.
BARMAHANA	30/1	1 19

By order,
U. N. SHARMA,
Secretary.

PUBLIC WORKS DEPARTMENT NOTIFICATIONS

Simla-2, the 23rd October, 1970

No. 2-32/70-PWD.—Whereas it appears to the Lieutenant Governor, Himachal Pradesh, that land is likely to be required to be taken by the Himachal Pradesh Government at the public expense for a public purpose, namely for construction of approach road to Government Polytechnic, Sundernagar, it is hereby notified that land in the locality described below is likely to be acquired for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894 to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Lieutenant Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested, who has any objection to the acquisition of the said land in the locality may within thirty days of the publication of this notification, file an objection in writing before the Collector of Land Acquisition, Himachal Pradesh Public Works Department, Mandi and Kulu, Himachal Pradesh.

SPECIFICATION

District: MANDI Tehsil: SUNDERNAGAR

Village	Khasra No.	Area Big. Bis.
SUNDERNAGAR	1652	1 12
	2127	1 10
	1651	2 11
	4506/4355/4234	0 15
	2127	4 1
	2128	0 15
Total ..		11 4

Simla-2, the 24th October, 1970

No. 2-34/70-PWD.—Whereas it appears to the Lieutenant Governor, Himachal Pradesh, that the land is required to be taken by the Government at public expense for a public purpose, namely for construction of Divisional Colony at Solan, it is hereby declared that the land described in the specification below is required for the above purpose.

2. The declaration is made under the provisions of section 6 of the Land Acquisition Act, 1894, to all whom it may concern and under the provisions of section 7 of the said Act the Collector, Land Acquisition, Himachal Pradesh Public Works Department, is hereby directed to take order for the acquisition of the said land.

3. A plan of the land may be inspected in the office of the Collector, Land Acquisition, Himachal Pradesh, Public Works Department, Solan.

SPECIFICATION

District: MAHASU		Tehsil: SOLAN
Village	Khasra No.	Area Square meters
JAWAHAR PARK	638/1	1114
WARD NO. 3	639	48
KASBA SOLAN.		
Total ..		1162

By order,
U. N. SHARMA,
Secretary.

REVENUE DEPARTMENT
NOTIFICATIONS

Simla-2, the 20th October, 1970

No. 2-144/66-Rev. I.—In exercise of the powers vested in him under section 77 (4) (b) of the Punjab Tenancy Act, 1887, as in force in the territories transferred to Himachal Pradesh with effect from 1-11-1966, as a result of Re-organisation of States and all other powers enabling him in this behalf, the Administrator (Lieutenant Governor), Himachal Pradesh, is pleased to confer on Shri P. S. Negi, Sub-Divisional Officer (Civil), Lahaul, Assistant Collector of First Grade to hear and determine any of the suits mentioned in the first group of sub-section (3) of section 77 of the said Act and he shall exercise the said powers within the local limits of Lahaul Sub-Division, District Lahaul and Spiti, from the date he took over the charge of the post.

Simla-2, the 20th October, 1970

No. 2-144/66-Rev. I.—In exercise of the powers vested in him under section 3 (c) of the Land Acquisition Act, 1894, and all other powers enabling him in this behalf, the Administrator (Lieutenant Governor), Himachal Pradesh is pleased to confer on Shri P. S. Negi, Sub-Divisional Officer (Civil), Lahaul, District Lahaul and Spiti, all the powers of a Collector under the said Act to be exercised by him within the local limits of Lahaul Sub-Division of Lahaul and Spiti district, from the date he took over the charge of the post.

Simla-2, the 20th October, 1970

No. 2-144/66-Rev. I.—In exercise of the powers vested in him under section 27 (1) (a) of the Punjab Land Revenue (Act of 1887), as in force in the territories transferred to Himachal Pradesh with effect from the 1st November, 1966, as a result of Re-organisation of States and all other powers enabling him in this behalf the Administrator (Lieutenant Governor), Himachal Pradesh is pleased to confer on Shri P. S. Negi, Sub-Divisional Officer (Civil), Lahaul, all the powers of Collector under the said Act to be exercised by him within the local limits of Lahaul Sub-Division subject to the control of the Collector of the Lahaul and Spiti District, from the date he took over the charge of the post.

Simla-2, the 20th October, 1970

No. 2-144/66-Rev. I.—In exercise of the powers vested in him under section 27 (1) (b) of the Punjab Land

Revenue (Act XVII of 1887), as in force in the territories transferred to Himachal Pradesh with effect from the 1st November, 1966, as a result of Re-organisation of States and all other powers enabling him in this behalf the Administrator (Lieutenant Governor), Himachal Pradesh is pleased to confer on Shri P. S. Negi, Sub-Divisional Officer (Civil), Lahaul, powers of Assistant Collector First-Grade under the said Act, to be exercised by him within the local limits of Lahaul Sub-Division of Lahaul and Spiti District, from the date he took over the charge of the post.

Simla-2, the 20th October, 1970

No. 2-144/66-Rev. I.—In exercise of the powers vested in him under section 3 (2) of the Punjab Restitution of Mortgaged Lands Act, 1932 (IV of 1938), as in force in the territories transferred to Himachal Pradesh, with effect from the 1st November, 1966, as a result of Re-organisation of States and all other powers enabling him in this behalf, the Administrator (Lieutenant Governor), Himachal Pradesh is pleased to specially empower Shri P. S. Negi, Sub-Divisional Officer (Civil), Lahaul, who is the Assistant Collector of first grade, to perform the duties of the Collector for the purposes of the said Act, to be exercised by him within the local limits of Lahaul Sub-Division of Lahaul and Spiti district, from the date he took over the charge of the post.

Simla-2, the 20th October, 1970

No. 2-144/66-Rev. I.—In exercise of the powers vested in him under section 2 (b) of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952 (Act No. VIII of 1953), as in force in the territories transferred to Himachal Pradesh with effect from the 1st November, 1966, as a result of Re-organisation of States and all other powers enabling him in this behalf, the Administrator (Lieutenant Governor), Himachal Pradesh is pleased to specially empower Shri P. S. Negi, Sub-Divisional Officer (Civil), Lahaul, who is the Assistant Collector of the first grade, to perform the duties of Collector under the said Act to be exercised by him within the local limits of Lahaul Sub-Division of Lahaul and Spiti district, from the date he took over the charge of the post.

Simla-2, the 20th October, 1970

No. 2-144/66-Rev. I.—In exercise of the powers vested in him under section 2 (c) of the Punjab Abolition of Ala Malkiyat and Talukdari Rights Act, 1952 (IX of 1953), as in force in the territories transferred to Himachal Pradesh with effect from the 1st November, 1966, as a result of Re-organisation of States and all other powers enabling him in this behalf, the Administrator (Lieutenant Governor), Himachal Pradesh, is pleased to specially empower Shri P. S. Negi, Sub-Divisional Officer (Civil), Lahaul, who is the Assistant Collector of first grade, to perform the duties of Collector under the said Act, to be exercised by him within the local limits of Lahaul Sub-Division of Lahaul and Spiti district, from the date he took over the charge of the post.

Simla-2, the 20th October, 1970

No. 2-144/66-Rev. I.—In exercise of the powers vested in him under clause (a) of sub-section (1) of section 105 of the Punjab Tenancy Act, 1887, as in force in the territories transferred to Himachal Pradesh with effect from 1-11-1966, as a result of Re-organisation of States and all other powers enabling him, in this behalf, the Administrator (Lieutenant Governor), Himachal

Pradesh, is pleased to confer on Shri P. S. Negi, Sub-Divisional Officer (Civil), Lahaul, all the powers of Collector under the said Act to be exercised by him within the local limits of Lahaul Sub-Division subject to the control of the Collector of the Lahaul and Spiti district, from the date he took over the charge of the post.

By order,
S. N. BISARYA,
Deputy Secretary.

**TRANSPORT DEPARTMENT
NOTIFICATION**

Simla-2, the 21st October, 1970

No. 14-40/70-CS&T (Tpt).—In exercise of the powers

conferred by section 13 (1) of the Punjab Motor Vehicle Taxation Act, 1924, as applied to Himachal Pradesh, the Administrator (Lieutenant Governor), Himachal Pradesh, has been pleased to exempt Station Wagon No. HIL-501, registered in the name of Bishop of Amritsar Diocese, placed at the disposal of Kangra Mission Dispensary Van Department, Kangra, from the liability to pay token tax, with effect from the next quarter due for payment of such tax, subject to the condition that the said vehicle is used for the bonafide work of the Mission Dispensary, Kangra.

By order,
B. C. NEGI,
Secretary.

**भाग 2—वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अध्यक्षों और जिला मैजिस्ट्रेटों द्वारा अधिसूचनाय
इत्यादि**

**INDUSTRIES DEPARTMENT
FORM 'H'**

**DECLARATION UNDER SECTION 24 OF THE
PUNJAB STATE AID TO INDUSTRIES ACT, 1935**
Dharamsala, the 27th October, 1970

No. Ind. (Loans) (L/DIO/774).—Whereas a notice was served on Shri Gopi Ram s/o Shri Phain, village Tip, Mauza Gandhwar, Tehsil Dehra, District Kangra on the 4th December, 1968, under section 23 of the Punjab State Aid to Industries Act, 1935, calling upon the said Shri Gopi Ram s/o Shri Phain to pay to me the sum of Rs. 80 plus Rs. 78 as interest with further interest thereon at the rate of 7-1/2 % per annum from 15th December, 1968 till date of final payment and whereas the said sum has not been paid in full, I hereby declare that the sum of Rs. 920 plus Rs. 172 as interest with further interest thereon at the rate of Rs 7-1/2 per cent per annum from 30th November, 1970 till date of final payment is due from the said Shri Gopi Ram and that the property described in the attached schedule is liable for the satisfaction of the said debt.

SCHEDULE

All assets present and to be hereinafter acquired by the loanee, whether the said assets now or in future in his name including book debts, stocks, stores, premises and machinery whether existing or to be purchased with the aid of the loan or part thereof. Any other personal security of the loanee.

V. P. GUPTA,
District Industries Officer,
Kangra at Dharamsala.

FORM 'H'

**DECLARATION UNDER SECTION 24 OF THE
PUNJAB STATE AID TO INDUSTRIES ACT 1935**

Dharamsala, the 27th October, 1970

No. Ind. (Loans) (L/DIO/773)13977.—Whereas a notice was served on Shrimati Naro Devi w/o Shri Hiru Ram, village Jakkar, P.O. Panjbar, Tehsil Dehra, District Kangra on the 4th September, 1968 under section 23 of the Punjab State Aid to Industries Act, 1935, calling upon the said Shrimati Naro Devi w/o Shri Hiru Ram to pay to me the sum of Rs. 667 plus Rs. 50 with further interest thereon at the rate of 7-1/2 per cent per annum from 25th September, 1968 till date of final payment and

whereas the said sum has not been paid in full, I hereby declare that the sum of Rs. 667 plus Rs. 206 as interest with further interest thereon at the rate of Rs. 7-1/2 per cent per annum from 29th November, 1970 till date of final payment is due from the said Shrimati Naro Devi and that the property described in the attached schedule is liable for the satisfaction of the said debt.

SCHEDULE

All assets present and to be hereinafter acquired by the loanee, whether the said assets are now or in future in his name including book debts, stocks, shares, stores, premises and machinery, whether existing or to be purchased with the aid of loan or part thereof. Any other personal security of the loanee.

V. P. GUPTA,
District Industries Officer,
Kangra at Dharamsala.

FORM 'H'

DECLARATION UNDER SECTION 24 OF THE ACT
Nahan, the 24th October, 1970

No. Ind. SMR (Loan) 12/39-3780-83.—Whereas a notice was served on Shrimati Vidyawati w/d Shri Roop Chand village, Bolion, Tehsil Nahan on the 18th July, 1970 under section 23 of the Punjab State Aid to Industries, H.P. (Amendment) Act, 1964, calling upon the said Shrimati Vidyawati to pay to me the sum of Rs. 3,000 with interest due up-to-date on or before the 31st July, 1970, and whereas the said sum has not been paid, I hereby declare that the sum of Rs 3,000 with penal interest at the rate of 8 per cent per annum till date of deposit is due from the said Shrimati Vidyawati and that the property described in the attached schedule is liable for the satisfaction of the said debt.

SCHEDULE

1. Land comprised Kharsa No. 80 situated in village Bolion, Tehsil Nahan.
2. Building single storey with land consisting 2 rooms standing on the land comprised Kharsa No 80 at village Bolion in Nahan, District Sirmur.

Sd/-
District Industries Officer, Sirmur District, Nahan.

FORM 'H'

DECLARATION UNDER SECTION 24 OF THE ACT
Nahan, the 24th October, 1970

No Ind.SMR (Loan)/70-713977-79—Whereas a notice

was served on Shri Ram Nath Paharis/o late Shri Atma Ram, Guughat, Nahan on the 5th August, 1970 under sections 23 and 27 of the Punjab State Aid to Industries (H. P. Amendment) Act, 1964, calling upon the said Shri Ram Nath to pay to me the sum of Rs. 5,000 with up-to-date interest on or before the 31st August, 1970 and whereas the said sum has not been paid, I hereby declare that the sum of Rs. 5,000 with interest due thereon at the rate of 9 per cent per annum up-to-date is due from the said Shri Ram Nath and that the property described in the attached schedule is liable for the satisfaction of the said debt.

SCHEDULE

Land comprising Khasra No. 539/398, Khata Khatauni 36/91, measuring 23 bighas 2 biswas situated in village Kheri Chengan, Tehsil Rainka.

Sd/-

District Industries Officer,
Sirmur district, Nahan.

FORM 'H'

DECLARATION UNDER SECTION 24 OF THE ACT Kalpa, the 16th October, 1970

No. KIN. (LOAN) 33-156/64.—Whereas a notice was served on Shri Chhering Wangdu son of Shri Sanam Palzor, village and P.O. Kanam, Tehsil Pooh, District Kinnaur, (Himachal Pradesh) on the 2nd February, 1970, under section 23 of the Punjab State Aid to Industries (H. P. Amendment) Act, 1964, calling upon the said Shri Chhering Wangdu son of Shri Sanam Palzor to pay to this office the sum of Rs. 410.34 (Rupees four hundred ten and thirty four paise) along with penal interest thereon up-to-date on or before the 25th February, 1970 and whereas the said Shri Chhering Wangdu has not paid the said sum, I hereby declare that the sum of Rs. 833.34 (balance principal) (Rupees eight hundred thirty-three and thirty-four paise only) along with interest and penal interest (up-to-date) will be charged till the date of payment is due from the said Shri Chhering Wangdu s/o Shri Sanam Palzor and that the property described in the attached schedule is liable for the satisfaction of the said debt.

SCHEDULE

All assets whether movable or immovable belonging to Shri Chhering Wangdu Loanee. A certificate of credit worthiness has been given by Shri Gian Singh Negi, the then Member of Legislative Assembly Himachal Pradesh.

Sd/-

District Industries Officer,
Kinnaur district, Kalpa.

FORM 'H'

DECLARATION UNDER SECTION 24 OF THE ACT Kalpa, the 16th October, 1970

No. KIN. L. (LOAN) 49-240/63.—Whereas a notice was served on Shri Thachung Chhering son of Shri Yangpat, village and P.O. Pooh, Tehsil Pooh, District Kinnaur (Himachal Pradesh) on the 12th February, 1970, under section 23 of the Punjab State Aid to Industries (H. P. Amendment) Act, 1964 calling upon the said Shri Thachung Chhering son of Shri Yangpat to pay to this

office the sum of Rs. 605 only (Rupees six hundred and five only) along with penal interest thereon up-to-date, on or before the 28th February, 1970; and whereas the said sum has not been paid, I hereby declare that the sum of Rs. 750 (Rupees seven hundred and fifty), (balance principal) along with interest and penal interest (up-to-date) will be charged till the date of payment is due from the said Shri Thachung Chhering son of Shri Yangpat and that the property described in the attached schedule is liable for the satisfaction of the said debt.

SCHEDULE

All assets whether movable or immovable belonging to Shri Thachung Chhering s/o Shri Yangpat, Loanee. A certificate of credit worthiness has been given by Shri Harbans Singh, the then A.D.M., Pooh, District Kinnaur, (Himachal Pradesh).

Sd/-

District Industries Officer,
Kinnaur District, Kalpa.

PUBLIC WORKS DEPARTMENT NOTIFICATION

Dharamsala, the 20th October, 1970

No. SEV-Bldgs. NPR-4-69/1/WII.—Whereas it appears to the Lieutenant Governor of Himachal Pradesh, that land is likely to be acquired to be taken by Government at public expense for a public purpose, namely for the Construction of Assistant Engineer's Office-cum-Residence at Nurpur, District Kangra.

It is hereby notified that the land in the locality described below is likely to be acquired for the above purpose.

This notification is made under the provision of section 4 of the Land Acquisition Act, 1894 to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Lieutenant Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any and in the locality and do all other acts required or permitted by that section.

Any person interested, who has any objection to the acquisition of any land in the locality may, within thirty days of the publication of this notification, file an objection in writing before the Land Acquisition Officer, Himachal Pradesh, Public Works Department, Kangra.

SPECIFICATION

District: KANGRA Tehsil: NURPUR

Village	Tikka	Area
JACHH	JACHH	0.12 acres or 1 Kanal and 6 Marlas.

Sd/-

Superintending Engineer,
5th Circle,
H.P. P.W.D., Dharamsala.

भाग 3—अधिनियम, विधेयक और विधेयकों पर प्रवर समिति के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश के उप-राज्यपाल, हिमाचल बेंच आफ़ देहली हाई कोर्ट, फाइनेन्शियल कमिशनर तथा कमिशनर आफ़ इन्कम-टैक्स द्वारा अधिसूचित आदेश इत्यादि

शून्य

भाग 4—स्थानीय स्वायत्त शासन: म्युनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, नोटिफाइड और टाउन एरिया तथा पंचायत विभाग

LOCAL SELF GOVERNMENT DEPARTMENT NOTIFICATION

Simla-2, the 23rd October, 1970

No. 3-3/70-LSG.—In exercise of the powers conferred under section 12 of the Cattle Trespass Act, 1871, as applied to Himachal Pradesh and in supersession of all the previous orders issued in this behalf, the Administrator (Lieutenant Governor), Himachal Pradesh is pleased to prescribe, with immediate effect, the scales of fine and feeding charges in respect of cattle impounded in the cattle pounds managed by the Local Bodies in Himachal Pradesh as per Schedule appended below:—

SCHEDULE

Animal		Scale of fine	Scale of feeding charges
		Rs.	Rs.
1. Camel/elephant	..	25	10
2. Buffalo	..	25	10
3. Horse	..	25	5
4. Mare, mule or pony	..	25	5
5. Cow or ox	..	25	5
6. Donkey or pig	..	5	2
7. Goat, sheep, ram or their kinds and calf	..	5	2

By order,
D. B. LAL,
Secretary.

DIRECTORATE OF PANCHAYATS ORDERS

Simla-4, the 19th October, 1970

No. 2-G-43/70-Panch (c).—Whereas Shri Paharu Ram, Vice President, Gram Panchayat, Kuleth, Development Block, Bharmour, District Chamba is reported to have lent a helping hand in the commitment of embezzlement of Panchayat funds to the extent of Rs. 1,986 by Shri Mangat Ram, ex-Secretary of the said Panchayat and also is alleged to have incurred an extra expenditure of Rs. 5,707.47 in connection with the recreation centre, Kuleth and School building Gawari, without the prior approval of the competent authority;

And whereas the above said actions tantamount to grave misconduct on the part of the above said Vice-President in the discharge of his official duties and an enquiry under section 118-A of the Himachal Pradesh Panchayati Raj Act is contemplated against the said Shri Paharu Ram;

Now, therefore, I, P. C. Sharma, Director of Panchayats, Himachal Pradesh in exercise of the powers conferred on me under section 118-A of the Himachal Pradesh Panchayat Raj Act, 1952 read with notification No. Panch. 20-205/59-II, dated the 23rd August, 1965 of the Himachal Pradesh Government hereby order an enquiry against the said Shri Paharu Ram, Vice President. The enquiry shall be conducted by the D.P.O. Chamba or his nominee which should be completed within a period of 2 months and report sent to this Directorate.

I further order that during the course of enquiry the said Shri Paharu Ram, Vice President, Gram Panchayat, Kuleth will remain under suspension and shall not take part in any act or proceedings of the Panchayat.

Simla-4, the 19th October, 1970

No. 7-G-155/68-Panch (c).—Whereas an enquiry was ordered against Shri Munshi Ram, Sarpanch, Gram Panchayat, Tilokpur, Tehsil Nurpur, District Kangra vide order of even number, dated the 20th November, 1968.

Whereas the said Shri Munshi Ram, after examining the enquiry report against him was served with a show-cause notice vide communications of even numbers, dated the 21st March, 1970 and 27th July, 1970.

And whereas after having examined the reply of the said Shri Munshi Ram given by him to the show-cause notice, he is found guilty of misconduct in the discharge of his duties, as Sarpanch, G.P. Tilokpur, Tehsil Nurpur, District Kangra.

Now, therefore, I, P. C. Sharma, Director of Panchayats, Himachal Pradesh, in exercise of the powers conferred upon me under section 102(2) of the Punjab Gram Panchayat Act, 1952, read with Notification No. 11508-LB-53/10558, dated the 6th May, 1954, hereby order the removal of the said Shri Munshi Ram, Sarpanch, Gram Panchayat, Tilokpur, Tehsil Nurpur, District Kangra, and further disqualify him from his contesting the election to any office of any Gram Panchayat in Himachal Pradesh for the next three years with effect from the date of issue of this order and order him to hand over the records, money or any property of the said body to the person authorised in this behalf by the Deputy Commissioner, Kangra district.

P. C. SHARMA,
Director.

Simla-4, the 19th October, 1970

No. 3-G-86/89-Panch (c).—Whereas an enquiry was ordered against Shri Devi Singh, President, Gram Panchayat, Mahori, Tehsil Theog, District Mahasu vide this Directorate order of even number, dated 21st June, 1969 for the alleged mis-appropriation of Gram Sabha funds to the tune of Rs. 9,000 approximately.

And whereas the said Shri Devi Singh is further reported to have stolen the record of the Gram Panchayat by breaking open the almirah of the Panchayat on 28th February, 1970 and joined Government service in the S.S.B. Organisation without awaiting the acceptance of his resignation and without handing over the charge of the office of the President, Gram Panchayat, Mahori.

And whereas the said Shri Devi Singh, is further involved in cases registered with the Anti-Corruption Unit.

And whereas his continuance in the office of the President, Gram Panchayat Mahori is considered undesirable even during the course of enquiry.

Now, therefore, I, B. L. Budhraj, Director of Panchayats, Himachal Pradesh in exercise of the powers vested in me, hereby place the said Shri Devi Singh, President, Gram Panchayat, Mahori under suspension under section 118-A of the Himachal Pradesh Panchayat, Raj Act, 1952 read with notification No. Panch. 20-205/59, dated the 23rd August, 1965 with immediate effect and further debar him from taking part in any act or proceedings of the said Gram Panchayat during the period of his suspension and also order him to hand over the records money and all other property of the Gram Panchayat to the Vice-President, Gram Panchayat Mahori.

B. L. BUDHRAJA,
Director.

भाग 5—वैयक्तिक अधिसूचनाएं और विज्ञापन

व अदालत श्री नेत्र सिंह शांडिल, एम 0 ए 0 एल-एल 0 बी 0, सीनियर सब-जज, महासू, कलसटन, शिमला-1

मुकदमा नं 0 10/2, बाबत साल 1970

दरखास्त बराये प्राप्त करने सक्सेशन सर्टिफिकेट जेर दफा 372 इन्डियन सक्सेशन ऐक्ट

1. श्रीमती निरमू देवी बेवा रतन दास, 2. श्रीमती राधा देवी, 3. इन्द्र सिंह नावालिंग, बासी कठासू, परगना रावी, तहसील जुब्बल, जिला महासू सायलान।

बनाम

आम जनता।

हरगाह कि जोकि श्रीमती निरमू देवी बेवा रतन दास ने दरखास्त जेर दफा 372 इन्डियन सक्सेशन ऐक्ट श्री रतन दास मृतवफी पुत्र देवनू, बासी कठासू, परगना रावी, तहसील जुब्बल बाबत जायदाद अदालत हजा में पेश की जाकर मिति 25-7-1970 को दर्ज रजिस्टर हुई लिहाजा बनाबर आगाही बरादरान व कराबतदारान मृतवफी इस्तहार हजा जारी किया जाता है कि जिस शख्स को दरखास्त मजकूर वारे कोई उजर हो तो वह किल्ल अज मिति 11-11-1970 को हाजिर अदालत हो कर अपना उजर पेश करें वरना कोई उजर बाद इनकजाय मियाद तारीख मजकूर समायत न होगा।

आज मिति 24-10-1970 को मेरे दस्तखत व मोहर अदालत से जारी किया गया।

नेत्र सिंह शांडिल,
सीनियर सब-जज।

मोहर।

इस्तहार अदालत

(जेर आर्डर 5, रूल 20 जाक्ता दीवानी)

व अदालत मान्यवर सीनियर सब-जज कांगड़ा स्थित धर्मशाला दावा दीवानी नं 0 104, बाबत वर्ष 1967

वमुकदमा लाला परस राम वगैरा बनाम श्रीमती भेकड़ी आदि।

बनाम कांशू नावालंग व वलायत श्रीमती भेकड़ी वालदा खुद पिसर काबलया, कोम गद्दी राजपूत, सकना भूताल, परगना सियून्ता, तहसील भटयात, जिला चम्बा। 2 श्रीमती धोनी नावालंग दुखतर काबलया हाल जोजा धोबु खाबंद खुद, कोम गद्दी गोगान, सकना कुफरी, परगना रेयपुर, तहसील भटयात, जिला चम्बा। 3. श्रीमति घडी, नावालंग दुखतर काबलया हाल वजरीया डेरू पति प्रतिवादी घडी, कोम गद्दी लवियान, साकन मोरतू, परगना माहला, डाकखाना माह्ला, जिला चम्बा (हिमाचल प्रदेश) प्रतिवादीगण।

मुकदमा मुन्दरजा उनवान वाला में वादियान ने एक दावा दलाये पाने डिगरी मुवलिंग 726 रुपये अदालत हजा में आपके विरुद्ध दायर किया है जिसमें आप उक्त प्रतिवादीगण की कई बार अदालत हजा द्वारा समनात जारी हो चुके हैं परन्तु तामील कुनिदा से प्रत्येक बार यही रिपोर्ट आती रही है कि आप उक्त प्रतिवादीगण धर पर नहीं मिलते हैं अतः समनात तामील से गुरेज करते हैं और रूपोश हो जाते हैं इसलिये अदालत हजा को अब पूर्ण विश्वास हो चुका है कि उक्त प्रतिवादीगण की तामील सरल ढंग से होना मुश्किल ही नहीं बल्कि नामुमकिन है अतः आप को वजरीया अखवार इस्तहार द्वारा सूचित किया जाता है कि अगर आपको कोई उजर निस्वत उपर्युक्त दावा हो तो दिनांक 10-11-70 को प्रातः 10 बजे असालतन या वकालतन हाजर हजा आन कर पैरवी

मुकदमा करें। बसूरत यकतरफा कारंवाई अमल में लाई जावेगी आज दिनांक 24 अक्टूबर सन् 1970 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर
हस्ताक्षरित,
सीनियर सब-जज।

PROCLAMATION UNDER ORDER 5, RULE 20 C.P.C.

In the Court of Shri Surindera Parkash, Sub-Judge, Simla

SUIT No. 42 of 1970

Shri Koli Ram (Plaintiff).

Versus

Shri Devki Nandan (Defendant).

To

Shri Devki Nandan Q. No. 10/14 Mahlog House, Tilak Nagar, Simla.

Whereas in the above noted case, it has been proved to the satisfaction of the Court that the above noted defendant is evading the service of the summons and cannot be served in normal course of service. Hence this proclamation is hereby issued against him to appear in this court on the date of hearing on the 17th November, 1970 at 10 A.M. personally or through his authorised agent or pleader to defend the case. Failing which ex-parte proceedings will be taken against him.

Given under my hand and the seal of this Court this 3rd day of October, 1970.

Seal.

SURINDRA PARKASH,
Sub-Judge.

IN THE COURT OF SHRI A. L. SONI, P.C.S. SENIOR SUB, JUDGE, SIMLA EXERCISING THE POWER OF THE DISTRICT JUDGE IN THE MATTER OF THE INDIAN SUCCESSION ACT, 1925

CASE No. 9 of 1970

Petition under section 372 of the Indian succession Act, 1925.

Shri Satish Kumar minor son of Shri Charan Dass and Kumari Shakuntla minor daughter of Shri Charan Dass through their next friend and paternal uncle Shri Narayan Dutt Umesh, residents of village Pathechi, Pargana Kamli Khurd, Tehsil and District Simla (Petitioners).

Versus

The General Public (Respondants).

To

All concerned.

Whereas the above named petitioners have filed an application in this Court for grant of Indian Succession Certificate late Shri Charan Dass s/o Ramji Dass Sharma deceased. Notice is hereby given to the General Public that if any body has any objection in this case, such person should appear in this Court on 17th November, 1970 at 10 A.M. to file their objection. If no objection is filed by the above mentioned date, the Succession Certificate will be given to the petitioners.

Given under my hand and the seal of the Court, this 26th October, 1970.

Seal.

A. L. SONI,
Senior Sub-Judge.

**IN THE COURT OF SHRI A. L. SONI, P.C.S.,
SENIOR SUB-JUDGE, SIMLA EXERCISING THE
POWER OF THE DISTRICT JUDGE SIMLA IN
THE MATTER OF INDIAN SUCCESSION ACT,
1956**

PETITION No. 5 OF 1970

Shri Sant Ram son of Shri Rairoo Mal, No. 32,
Bhagat Singh Road, Simla (Petitioner).

General Public Versus (Respondants).

To : All concerned.

Whereas the above named petitioner has filed an

application in this court for grant of Succession certificate in the goods of late Shrimati Roshni Devi w/o Shri Sant Ram deceased. Notice is hereby given to the General Public that if any body has any objection in this case, such person should appear in this Court on 24-11-1970 (24th November, 1970), at 10 A.M. to file their objection. If no objection is filed by the above mentioned date the Succession Certificate will be given to the petitioner.

Given under my hand and the seal of the Court. this
19th October, 1970.

Seal.

A. L. SONI,
Senior Sub-Judge.

भाग 6—भारतीय राजपत्र इत्यादि में से पुनः प्रकाशन

(देखिये पृष्ठ 990 से 1018)

**भाग 7—भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं
तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं**

**ELECTION DEPARTMENT
NOTIFICATION**

Simla-2, the 28th October, 1970

No. 3-11/70-Elec.—The Election Commission's order No. HP-LA/36/67, dated the 22nd September, 1970 is hereby published for general information.

By order,
D. B. LAL,
Chief Electoral Officer,
Himachal Pradesh.

ELECTION COMMISSION OF INDIA

ORDER

Talkatora Road, New Delhi-1, the 22nd September, 1970/
Bhadra 31, 1892 (Saka)

No. HP-LA/36/67.—Whereas the Election Commission is satisfied that Shri Lala resident of village Jamehar, Post Office Sagur, District Kangra, Himachal Pradesh, a contesting candidate for general election, 1967 to the Himachal Pradesh Legislative Assembly from 36-Bajinath Assembly Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

2. And whereas, the said candidate even after due notices has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for such failure;

3. Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Lala, to be disqualified for being chosen as and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

By order,
ROSHAN LAL,
Secretary to the Election Commission of India.

**ELECTION DEPARTMENT
NOTIFICATION**

Simla-2, the 28th October, 1970

No. 3-11/70-Elec.—The Election Commission's order No. HP-LA/40/67, dated the 23rd September, 1970 is hereby published for general information.

By order,
D. B. LAL,
Chief Electoral Officer,
Himachal Pradesh.

**ELECTION COMMISSION OF INDIA
ORDER**

Talkatora Road, New Delhi, 23rd September, 1970/
Asvina 1, 1892 (Saka)

No. HP-LA/40/67.—Whereas the Election Commission is satisfied that Shri Bishan Dass s/o Shri Milkhi Ram, r/o village Kalyara, Post Office Gharoh, Tehsil Kangra, Himachal Pradesh, a contesting candidate for general election 1967 to the Himachal Pradesh Legislative Assembly from 40-Dharamsala Assembly constituency has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

2. And whereas, the said candidate even after due notices has not given any reason or explanation for the failure and the Election Commission is satisfied that he has not good reason or justification for such failure;

3. Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Bishan Dass, to be disqualified for being chosen as and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a state for a period of three years from the date of this order.

By order,
ROSHAN LAL,
Secretary to the Election Commission of India.

अनुपूरक

शुभ

PART VI

LAW DEPARTMENT
NOTIFICATIONS

Simla-4, the 5th June, 1959

No. LR. 16-12/58.—The following Act recently passed by the Parliament of India and already published in the Gazette of India Extraordinary Part II, Section I, dated 9th May, 1959 is hereby republished in the Himachal Pradesh Administration Gazette for the information of general public.

The Coal Grading Board (Repeal) Act, 1959 (No. 17 of 1959).

Sd/-
Under Secretary (Judicial).

(Received Assent on 9-5-59).

THE COAL GRADING BOARD (REPEAL) ACT, 1959
(17 of 1959)AN
ACT

to repeal the Coal Grading Board Act, 1925, and to provide for certain matters incidental thereto.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Coal Grading Board (Repeal) Act, 1959.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “appointed day” means the date on which this Act comes into force;

(b) “Coal Board” means the Coal Board established under section 4 of the Coal Mines (Conservation and Safety) Act, 1952 (12 of 1952);

(c) “Coal Grading Board” means the Coal Grading Board constituted under section 3 of the Coal Grading Board Act, 1925 (31 of 1925).

3. *Repeal of Act 31 of 1925 and dissolution of Coal Grading Board.*—On the appointed day, the Coal Grading Board Act, 1925, shall stand repealed, and the Coal Grading Board shall stand dissolved.

4. *Consequential provisions.*—(1) All moneys and other property, of whatever kind, owned by or vested in, the Coal Grading Board immediately before the appointed day and all debts, liabilities and obligations of that Board then existing shall, on the appointed day, stand transferred to and vested in the Coal Board.

(2) Anything done or any action taken before the appointed day by the Coal Grading Board shall, so far as it is not inconsistent with any of the provisions of the Coal Mines (Conservation and Safety) Act, 1952, (12 of 1952) or the rules made thereunder, be as valid and effectual as if it had been done or taken by the Coal Board.

Simla-4, the 19th June, 1959

No. LR. 16-12/58.—The following Acts recently passed by the Parliament of India and already published in the Gazette of India Extraordinary, Part II, Section I, dated 20th May, 1959 are hereby republished in the Himachal Pradesh Administration Gazette for the information of general public:—

(1) The Cost and Works Accountants Act, 1959 (No. 25 of 1959).

(2) The Census (Amendment) Act, 1959 (No. 22 of 1959).

(3) The Displaced Persons (Compensation and Rehabilitation) Amendment Act, 1959 (No. 21 of 1959).

Sd/-
Under Secretary.

THE COST AND WORKS ACCOUNTANTS ACT
1959

ARRANGEMENT OF SECTIONS

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10. Mode of election to Council.
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(1 of 1956)

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THE FIRST SCHEDULE

THE SECOND SCHEDULE

(Assented to on 19-5-59)

THE COST AND WORKS ACCOUNTANTS ACT, 1959

AN
ACT

to make provision for the regulation of the profession of cost and works accountants.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Cost and Works Accountants Act, 1959.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions and interpretation.*—(1) In this Act, unless the context otherwise requires,—

- (a) “associate” means an associate member of the Institute;
- (b) “cost accountant” means a person who is a member of the Institute;
- (c) “Council” means the Council of the Institute;
- (d) “dissolved company” means the Institute of Cost and Works Accountants registered under the Companies Act, 1956 (1 of 1956);
- (e) “fellow” means a fellow of the Institute;
- (f) “Institute” means the Institute of Cost and Works Accountants of India constituted under this Act;
- (g) “prescribed” means prescribed by regulations made under this Act;
- (h) “President” means the President of the Council;
- (i) “Register” means the Register of members maintained under this Act;
- (j) “Vice-President” means the Vice-President of the Council;
- (k) “year” means the period commencing on the 1st day of April of any year and ending on the 31st day of March of the succeeding year.

(2) Save as otherwise provided in this Act, a member of the Institute shall be deemed “to be in practice” when, individually or in partnership with one or more members of the Institute in practice, he, in consideration of remuneration received or to be received,—

- (i) engages himself in the practice of cost and works accountancy; or
- (ii) offers to perform or performs services involving the costing or pricing of goods or services or the preparation, verification or certification of cost accounting and related statements or holds himself out to the public as a cost accountant in practice; or
- (iii) renders professional services or assistance in or about matters of principle or detail relating to cost accounting procedure or the recording, presentation or certification of costing facts or data; or
- (iv) renders such other services as, in the opinion of the Council, are or may be rendered by a cost accountant in practice;

and the words “to be in practice”, with their grammatical variations and cognate expressions, shall be construed accordingly.

Explanation.—A member of the Institute who is a whole-time salaried employee of any person shall not be deemed to be in practice within the meaning of this sub-section.

CHAPTER II

THE INSTITUTE OF COST AND WORKS ACCOUNTANTS

3. *Incorporation of the Institute.*—(1) All persons whose names are entered in the Register at the commencement of this Act and all persons who may hereafter have their names entered in the Register under the provisions of this Act, so long as they continue to have their names borne on the said Register, are hereby constituted a body corporate by the name of the Institute of Cost and Works Accountants of India, and all such persons shall be known as members of the Institute.

(2) The Institute shall have perpetual succession and a common seal, and shall have power to acquire, hold and dispose of property, both movable and immovable, and shall by its name sue or be sued.

4. *Entry of names in the Register.*—(1) Any of the following persons shall be entitled to have his name entered in the Register, namely:—

- (i) any person who was an associate or a fellow of the dissolved company (other than an honorary associate or honorary fellow thereof) immediately before the commencement of this Act, except any such person who is not a permanent resident of India and is not at such commencement practising as a cost accountant in India;
- (ii) any person who has passed such examination and completed such training as may be prescribed for members of the Institute;
- (iii) any person who at the commencement of this Act, is engaged in the practice of cost accountancy in India and who fulfils such conditions as the Central Government or the Council may specify in this behalf;
- (iv) any person who has passed such other examination and completed such other training without India as is recognised by the Central Government or the Council as being equivalent to the examination and training prescribed for members of the Institute;

Provided that in the case of any person who is not permanently residing in India, the Central Government or the Council may impose such further conditions as it may deem fit;

- (v) any person domiciled in India, who at the commencement of this Act is studying for any foreign examination and is at the same time undergoing training, whether within or without India, or, who, having passed such examination, is at such commencement undergoing training whether within or without India;

Provided that such foreign examination and training are recognised by the Central Government or the Council in this behalf:

Provided further that the person passes the examination and completes his training within five years from the commencement of this Act.

(2) Every person belonging to the class mentioned in clause (i) of sub-section (1) shall have his name entered in the Register without the payment of any entrance fee.

(3) Every person belonging to any of the classes mentioned in clauses (ii), (iii), (iv) and (v) of sub-section (1) shall have his name entered in the Register on application being made and granted in the prescribed manner

and on payment of the prescribed entrance fee, which shall not exceed rupees three hundred in any case.

(4) The Central Government shall take such steps as may be necessary for the purpose of having the names of all persons belonging to the class mentioned in clause (i) of sub-section (1) entered in the Register at the commencement of this Act.

5. *Fellows and associates.*—(1) The members of the Institute shall be divided into two classes designated respectively as associates and fellows.

(2) Any person other than a person to whom the provisions of sub-section (3) apply shall, on his name being entered in the Register, be deemed to have become an associate member of the Institute and so long as his name remains so entered, shall be entitled to use the letters AICWA after his name to indicate that he is an associate member of the Institute of Cost and Works Accountants.

(3) Any person who was a fellow of the dissolved company and who is entitled to have his name entered in the Register under clause (i) of sub-section (1) of section 4, shall be entered in the Register as a fellow of the Institute.

(4) A member, being an associate who has been in continuous practice in India for at least five years, whether before or after the commencement of this Act, or whether partly before and partly after the commencement of this Act, and a member who has been an associate for a continuous period of not less than five years and who possesses such qualifications as the Council may prescribe with a view to ensuring that he has experience equivalent to the experience normally acquired as a result of continuous practice for a period of five years as a cost accountant shall, on payment of the prescribed entrance fee, which shall not exceed rupees two hundred in any case, and on application made and granted in the prescribed manner, be entered in the Register as a fellow of the Institute.

Explanation. I.—For the purposes of this sub-section, a person shall be deemed to have practised in India for any period for which he has held a certificate of practice under section 6, notwithstanding that he did not actually practise during that period.

Explanation II.—In computing the continuous period during which a person has been an associate of the Institute, there shall be included any continuous period during which the person has been an associate of the dissolved company immediately before he became an associate of the Institute.

(5) Any person whose name is entered in the Register as a fellow of the Institute and so long as his name remains so entered, shall be entitled to use the letters FICWA after his name to indicate that he is a fellow of the Institute of Cost and Works Accountants.

6. *Certificate of practice.*—(1) No member of the Institute shall be entitled to practise, whether in India or elsewhere, unless he has obtained from the Council a certificate of practice

(2) Every such member shall make application in such form and pay such annual fee, for his certificate as may be prescribed, and such fee shall be payable on or before the 1st day of April, in each year:

Provided that if a member of the Institute who was in practice immediately before the commencement of this Act has made within one month of such commencement an application for the grant of certificate of practice, he shall not be deemed to have contravened the provisions of sub-section (1) by reason of his having practised during the period between such commencement and the disposal of the application.

7. *Members to be known as cost accountants.*—Every member of the Institute in practice shall, and any other member may, use the designation of a cost accountant and no member using such designation shall use any other description, whether in addition thereto or in substitution therefor:

Provided that nothing in this section shall be deemed to prohibit any such member from adding any other description or letters to his name, if entitled thereto to indicate membership of such other Institute of accountancy, whether in India or elsewhere, as may be recognised in this behalf by the Council, or any other qualification that he may possess, or to prohibit a firm, all the partners of which are members of the Institute and in practice, from being known by its firm name as cost accountants.

8. *Disabilities.*—Notwithstanding anything contained in section 4, a person shall not be entitled to have his name entered in, or borne on, the Register if he—

- (i) has not attained the age of twenty-one years at the time of his application for the entry of his name in the Register; or
- (ii) is of unsound mind and stands so adjudged by a competent court; or
- (iii) is an undischarged insolvent; or
- (iv) being a discharged insolvent, has not obtained from the court a certificate stating that his insolvency was caused by misfortune without any misconduct on his part; or
- (v) has been convicted by a competent court whether within or without India, of an offence involving moral turpitude and punishable with imprisonment or of an offence, not of a technical nature, committed by him in his professional capacity unless in respect of the offence committed he has either been granted a pardon or, on an application made by him in this behalf, the Central Government has, by an order in writing removed the disability; or
- (vi) has been removed from membership of the Institute on being found on inquiry to have been guilty of professional or other misconduct:

Provided that a person who has been removed from membership for a specified period, shall not be entitled to have his name entered in the Register until the expiry of such period.

CHAPTER III COUNCIL OF THE INSTITUTE

9. *Constitution of the Council of the Institute.*—(1) There shall be a Council of the Institute for the management of the affairs of the Institute and for discharging functions assigned to it by or under this Act.

(2) The Council shall be composed of—

- (a) not more than twelve persons elected by members of the Institute from amongst the fellows of the Institute chosen in such manner and from such regional constituencies as may be specified in this behalf by the Central Government by notification in the Official Gazette; and
- (b) not more than four persons nominated by the Central Government.

10. *Mode of election to Council.*—(1) Elections under clause (a) of sub-section (2) of section 9 shall be conducted in the prescribed manner:

Provided that the first election under the said clause shall be held in such manner as the Central Government may specify in this behalf.

(2) Where any dispute arises regarding any such election, the matter shall be referred by the Council to a Tribunal appointed by the Central Government in

this behalf and the decision of such Tribunal shall be final:

Provided that no such reference shall be made except on an application made to the Council by an aggrieved party within thirty days from the date of the declaration of the result of the election.

(3) The expenses of the Tribunal shall be borne by the Council.

11. Nomination in default of election.—If the members of the Institute fail to elect any member under clause (a) of sub-section (2) of section 9 from any of the regional constituencies that may be specified under that clause, the Central Government may nominate any duly qualified person from such constituency to fill the vacancy, and any person so nominated shall be deemed to be a duly elected member of the Council.

12. President and Vice-President.—(1) The Council at its first meeting shall elect two of its members to be respectively the President and the Vice-President thereof, and so often as the office of the President or the Vice-President becomes vacant, the Council shall choose a person to be the President or the Vice-President, as the case may be:

Provided that on the first constitution of the Council a member of the Council nominated in this behalf by the Central Government shall discharge the functions of the President, until such time as a President is elected under the provisions of this sub-section.

(2) The President shall be the Chief Executive Authority of the Council.

(3) The President or the Vice-President shall hold office for a period of one year from the date on which he is chosen but so as not to extend beyond his term of office as a member of the Council and, subject to his being a member of the Council at the relevant time, he shall be eligible for re-election:

Provided that the President of the Council at the time of the expiration of its duration shall continue to hold office until a new Council is constituted in accordance with the provisions of this Act.

13. Registration of membership and casual vacancies.—(1) Any member of the Council may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall become vacant when such resignation is notified in the Official Gazette.

(2) A member of the Council shall be deemed to have vacated his seat if he is declared by the Council to have been absent without sufficient excuse from three consecutive meetings of the Council, or if his name is, for any cause, removed from the Register under the provisions of section 20.

(3) A casual vacancy in the Council shall be filled by fresh election from the constituency concerned or by nomination by the Central Government, as the case may be, and the person elected or nominated to fill the vacancy shall hold office until the dissolution of the Council:

Provided that no election shall be held to fill a casual vacancy occurring within six months prior to the date of the expiration of the duration of the Council, but such vacancy may be filled by nomination by the Central Government after consultation with the President of the Council.

(4) No act done by the Council shall be called in question on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Council.

14. Duration and dissolution of Council.—(1) The duration of any Council constituted under this Act shall be three years from the date of its first meeting.

(2) Notwithstanding the expiration of the duration of a Council (hereinafter referred to as the former Council),

the former Council shall continue to exercise its functions under this Act until a new Council is constituted in accordance with the provisions of this Act, and on such constitution, the former Council shall stand dissolved.

15. Functions of the Council.—(1) The duty of carrying out the provisions of this Act shall be vested in the Council.

(2) In particular, and without prejudice to the generality of the foregoing power, the duties of the Council shall include—

- (a) the examination of candidates for enrolment and the prescribing of fees therefor;
- (b) the registration and training of students;
- (c) the prescribing of qualifications for entry in the Register;
- (d) the recognition of foreign qualifications and training for purposes of enrolment.
- (e) the granting or refusal of certificates of practice under this Act;
- (f) the maintenance and publication of a Register of persons qualified to practise as cost accountants;
- (g) the levy and collection of fees from members, examinees and other persons;
- (h) the removal of names from the Register and restoration to the Register of names which have been removed;
- (i) the regulation and maintenance of the status and standard of professional qualifications of members of the Institute;
- (j) the carrying out, by financial assistance to persons other than members of the Council or in any other manner, of research in accountancy;
- (k) the maintenance of libraries and publication of books and periodicals relating to cost accountancy and allied subjects; and
- (l) the exercise of disciplinary powers conferred by this Act.

16. Staff, remuneration and allowances.—(1) For the efficient performance of its duties, the Council may:—

- (a) appoint a Secretary who may also, if so decided by the Council, act as Treasurer;
- (b) appoint such other persons on its staff as it deems necessary;
- (c) require and take from the Secretary or from any other employee of the Council such security for the due performance of his duties as the Council considers necessary;
- (d) fix the salaries, fees, allowances and other conditions of service of the Secretary and other employees of the Council;
- (e) with the previous sanction of the Central Government fix the allowances of the President, Vice-President and other members of the Council and its Committees;

(2) The Secretary of the Council shall be entitled to participate in the meetings of the Council and the Committees thereof but shall not be entitled to vote thereat.

17. Committees of the Council.—(1) The Council shall constitute from amongst its members the following Standing Committees, namely:—

- (i) an Executive Committee;
- (ii) a Disciplinary Committee;
- (iii) an Examination Committee.

(2) The Council may also form a Training and Educational Facilities Committee and such other Committees from amongst its members as it deems necessary for the purpose of carrying out the provisions of this Act.

(3) The Executive Committee shall consist of the President, and the Vice-President, *ex-officio* and three other members of the Council elected by the Council.

(4) The Disciplinary Committee shall consist of the President, *ex-officio*, one member to be nominated by the Central Government from amongst the members nominated to the Council by that Government and one member to be elected by the Council.

(5) The Examination Committee shall consist of the President or the Vice-President, *ex-officio*, as the Council may decide, and two other members of the Council elected by the Council.

(6) Notwithstanding anything contained in this section, any Committee formed under sub-section (2), may, with the sanction of the Council, co-opt such other members of the Institute not exceeding two-thirds of the total membership of the Committee as the Committee thinks fit, and any member so co-opted shall be entitled to exercise all the rights of a member of the Committee.

(7) The President shall be the Chairman of every Committee of which he is a member, and in his absence, the Vice-President, if he is a member of the Committee, shall be the Chairman.

(8) The Standing Committees and other Committees formed under this section shall exercise such functions and be subject to such conditions in the exercise thereof as may be prescribed.

18. *Finances of the Council.*—(1) There shall be established a fund under the management and control of the Council into which shall be paid all moneys received by the Council and out of which shall be met all expenses and liabilities properly incurred by the Council.

(2) The Council may invest any money for the time being standing to the credit of the fund in any Government security or in any other security approved by the Central Government.

(3) The Council shall keep proper accounts of the funds distinguishing capital from revenue.

(4) The annual accounts of the Council shall be subject to audit by a chartered accountant in practice within the meaning of the Chartered Accountants Act, 1949 (38 of 1949), to be appointed annually by the Council.

Provided that no member of the Council who is a chartered accountant or a person who is in partnership with such member shall be eligible for appointment as an auditor under this sub-section.

(5) As soon as may be practicable at the end of each year, but not later than the 30th day of September of the year next following, the Council shall cause to be published in the Gazette of India a copy of the audited accounts and the Report of the Council for that year and copies of the said accounts and Report shall be forwarded to the Central Government and to all the members of the Institute.

(6) The Council may borrow from a scheduled bank as defined in the Reserve Bank of India Act, 1934 (2 of 1934), or from the Central Government—

(a) any money required for meeting its liabilities on capital account on the security of the fund or on the security of any other assets for the time being belonging to it; or

(b) for the purpose of meeting current liabilities pending the receipt of income by way of temporary loan or over-draft

CHAPTER IV REGISTER OF MEMBERS

19. *Register.*—(1) The Council shall maintain in the prescribed manner a Register of the members of the Institute.

(2) The Register shall include the following particulars about every member of the Institute, namely:—

- (a) his full name, date of birth, domicile, residential and professional addresses;
- (b) the date on which his name is entered in the Register;
- (c) his qualifications;
- (d) whether he holds a certificate of practice; and
- (e) any other particulars which may be prescribed.

(3) The Council shall cause to be published in such manner as may be prescribed a list of members of the Institute as on the 1st day of April of each year, and shall, if requested to do so by any such member, send him a copy of such list.

(4) Every member of the Institute shall, on his name being entered in the Register, pay such annual membership fee differing in amount according as he is an associate or a fellow as may be prescribed.

20. *Removal from the Register.*—(1) The Council may remove from the Register the name of any member of the Institute,

- (a) who is dead; or
- (b) from whom a request has been received to that effect; or
- (c) who has not paid any prescribed fee required to be paid by him; or
- (d) who is found to have been subject at the time when his name was entered in the Register, or who at any time thereafter has become subject, to any of the disabilities mentioned in section 8, or who for any other reason has ceased to be entitled to have his name borne on the Register.

(2) The Council shall remove from the Register the name of any member in respect of whom an order has been passed under this Act removing him from membership of the Institute.

CHAPTER V MISCONDUCT

21. *Procedure in inquiries relating to misconduct of members of Institute.*—(1) Where on receipt of information by, or a complaint made to, it, the Council is *prima facie* of opinion that any member of the Institute has been guilty of any professional or other misconduct, the Council shall refer the case to the Disciplinary Committee constituted under section 17, and the Disciplinary Committee shall thereupon hold such inquiry and in such manner as may be prescribed and shall report the result of its inquiry to the Council.

(2) If on receipt of such report the Council finds that the member of the Institute is not guilty of any professional or other misconduct, it shall record its finding accordingly and direct that the proceedings shall be filed, or the complaint shall be dismissed, as the case may be.

(3) If on receipt of such report the Council finds that the member of the Institute is guilty of any professional or other misconduct, it shall record a finding accordingly, and shall proceed in the manner laid down in the succeeding sub-sections.

(4) Where the finding is that a member of the Institute has been guilty of a professional misconduct specified in the First Schedule, the Council shall afford to the member an opportunity of being heard before orders are passed against him on the case, and may thereafter make any of the following orders, namely:—

- (a) reprimand the member;
- (b) remove the name of the member from the Register for such period, not exceeding five years, as the Council thinks fit;

Provided that where the Council is of opinion that the case is one in which the name of the member ought to be removed from the Register for a period exceeding five years or permanently, it shall not make any order

referred to in clause (a) or clause (b), but shall forward the case to the High Court with its recommendations thereon.

(5) Where the misconduct in respect of which the Council has found any member of the Institute guilty is a misconduct other than any such misconduct as is referred to in sub-section (4), it shall forward the case to the High Court with its recommendations thereon.

(6) On receipt of any case under sub-section (4) or sub-section (5), the High Court shall fix a date for the hearing of the case and shall cause notice of the date so fixed to be given to the member of the Institute concerned, the Council and to the Central Government, and shall afford such member, the Council and the Central Government an opportunity of being heard and may thereafter make any of the following orders, namely:—

- (a) direct that the proceedings be filed, or dismiss the complaint, as the case may be;
- (b) reprimand the member;
- (c) remove him from membership of the Institute either permanently or for such period as the High Court thinks fit;
- (d) refer the case to the Council for further inquiry and report.

(7) Where it appears to the Court that the transfer of any case pending before it to another High Court, will promote the ends of justice or tend to the general convenience of the parties, it may so transfer the case, subject to such conditions, if any, as it thinks fit to impose, and the High Court to which such case is transferred shall deal with it as if the case had been forwarded to it by the Council.

Explanation I.—In this section “High Court” means the highest civil court of appeal, not including the Supreme Court, exercising jurisdiction in the area in which the person whose conduct is being inquired into carries on business, or has his principal place of business at the commencement of the inquiry:

Provided that where the cases relating to two or more members of the Institute have to be forwarded by the Council to different High Courts, the Central Government shall, having regard to the ends of justice and the general convenience of the parties, determine which of the High Courts to the exclusion of others shall hear the cases against all the members.

Explanation II.—For the purposes of this section “member of the Institute” includes a person who was a member of the Institute on the date of the alleged misconduct although he has ceased to be a member of the Institute at the time of the inquiry.

(8) For the purposes of any inquiry under this section the Council and the Disciplinary Committee shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) the discovery and production of any document; and
- (c) receiving evidence on affidavits.

22. Misconduct defined.—For the purposes of this Act, the expression “professional misconduct” shall be deemed to include any act or omission specified in any of the Schedules, but nothing in this section shall be construed to limit or abridge in any way the power conferred or duty cast on the Council under sub-section (1) of section 21 to inquire into the conduct of any member of the Institute under any other circumstances.

CHAPTER VI

REGIONAL COUNCILS

23. Constitution and functions of Regional Councils.—(1) For the purpose of advising and assisting it on matters

concerning its functions, the Council may constitute such Regional Councils as and when it deems fit for one or more of the regional constituencies that may be specified by the Central Government under clause (a) of sub-section (2) of section 9.

(2) The Regional Councils shall be constituted in such manner and exercise such functions as may be prescribed.

CHAPTER VII

PENALTIES

24. Penalty for falsely claiming to be a member, etc.—Any person who,—

- (i) not being a member of the Institute—

- (a) represents that he is a member of the Institute;
- (b) uses the designation cost accountant; or

- (ii) being a member of the Institute, but not having a certificate of practice, represents that he is in practice or practises as a cost accountant;

shall be punishable on first conviction with fine which may extend to one thousand rupees, and on any subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

25. Penalty for using name of the Council, awarding degrees of cost accountancy etc.—(1) Save as otherwise provided in this Act, no person shall,—

- (i) use a name or a common seal which is identical with the name or the common seal of the Institute is likely to deceive the public;

- (ii) award any degree, diploma or certificate or bestow any designation which indicates or purports to indicate the position or attainment of any qualification or competence in cost accountancy similar to that of a member of the Institute; or

- (iii) seek to regulate in any manner whatsoever the profession of cost and works accountants.

(2) Any person contravening the provisions of sub-section (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable on first conviction with fine which may extend to one thousand rupees, and on any subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

(3) Nothing contained in this section shall apply to any University established by law or to any body affiliated to the Institute.

(4) If the Central Government is satisfied that any diploma or certificate or any designation granted or conferred by any person other than the Institute, which purports to be a qualification in cost accountancy but which, in the opinion of the Central Government, falls short of the standard of qualifications prescribed for cost accounts and does not in fact indicate or purport to indicate the position or attainment of any qualification or competence in cost accountancy similar to that of a member of the Institute, it may, by notification in the Official Gazette and subject to such conditions as it may think fit to impose declare that this section shall not apply to such diploma or certificate or designation.

26. Companies not to engage in cost accountancy.—

- (1) No company, whether incorporated in India or elsewhere, shall practise as cost accountants.

(2) Any contravention of the provisions of sub-section (1) shall be punishable on first conviction with fine which may extend to one thousand rupees, and on any subsequent conviction to five thousand rupees.

27. Unqualified persons not to sign documents.—(1) No person other than a member of the Institute shall sign any document on behalf of a cost accountant in

practice or a firm of such cost accountants in his or its professional capacity.

(2) Any person contravening the provision of sub-section (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable with fine which may extend on first conviction to one thousand rupees, and on any subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

28. Offences by companies.—(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) "company", with respect to an offence under section 24, section 25 or section 27, means any body corporate and includes a firm or other association of individuals; and with respect to an offence under section 26 means a body corporate; and
- (b) "director", in relation to a firm, means a partner in the firm.

29. Sanction to prosecute.—No person shall be prosecuted under this Act except on a complaint made by or under the order of the Council or of the Central Government.

CHAPTER VIII

DISSOLUTION OF THE INSTITUTE OF COST AND WORKS ACCOUNTANTS REGISTERED UNDER THE COMPANIES ACT, 1956 (1 OF 1956)

30. Dissolution of the Institute of Cost and Works Accountants registered under the Companies Act, 1956.—On the commencement of this Act,—

- (a) the company known as the Institute of Cost and Works Accountants registered under the Companies Act, 1956 (1 of 1956) shall be dissolved and thereafter no person shall make, assert or take any claims, demands or proceedings against the dissolved company or against any officer thereof in his capacity as such officer except in so far as may be necessary, for enforcing the provisions of this Act;
- (b) the right of every member to or in respect of the dissolved company shall be extinguished, and thereafter no member of that company shall make, assert or take any claims or demands or proceedings in respect of that company except as provided in this Act.

31. Transfer of assets and liabilities of the dissolved company to the Institute.—(1) On the commencement of this Act, there shall be transferred to and vested in the Institute all the assets and liabilities of the dissolved company.

(2) The assets of the dissolved company shall be deemed to include all rights and powers, and all property, whether movable or immovable of the company, including, in particular, cash balances, reserve funds, investments, deposits and all other interests and rights in or arising out of such property as may be in the possession of the dissolved company and all books of accounts or documents of the dissolved company; and the liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind then existing of that company.

(3) All contracts, debts, bonds, agreements and other instruments of whatever nature to which the dissolved company is a party, subsisting or having effect immediately before the commencement of this Act, shall be of as full force and effect against or in favour of the Institute, as the case may be, and may be enforced as fully and effectively as if instead of the dissolved company, the Institute had been a party thereto.

(4) If, on the commencement of this Act, any suit, appeal or other legal proceeding of whatever nature by or against the dissolved company is pending, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer to the Institute of the assets and liabilities of the dissolved company or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Institute, in the same manner and to the same extent as it would or may be continued, prosecuted and enforced by or against the dissolved company if this Act had not been passed.

32. Provisions respecting employees of the dissolved company.—(1) Every person employed in the dissolved company prior to the 1st day of September, 1958, and still in its employment immediately before the commencement of this Act shall, as from such commencement, become an employee of the Institute, shall hold his office or service therein by the same tenure and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity as he would have held the same under the dissolved company if this Act had not been passed, and shall continue to do so unless and until his employment in the Institute is terminated or until his remuneration, terms and conditions of employment are duly altered by the Institute.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, the transfer of the services of any employee of the dissolved company to the Institute shall not entitle any such employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority.

CHAPTER IX

MISCELLANEOUS

33. Appeals.—(1) Any member of the Institute aggrieved by any order of the Council imposing on him any of the penalties referred to in clause (a) or clause (b) of sub-section (4) of section 21, may, within thirty days of the date on which the order is communicated to him, prefer an appeal to the High Court:

Provided that the High Court may entertain any such appeal after the expiry of the said period of thirty days, if it is satisfied that the member was prevented by sufficient cause from filing the appeal in time.

(2) The High Court may, on its own motion or otherwise, after calling for the records of any case, revise any order made by the Council under sub-section (2) or sub-section (4) of section 21 and may—

- (a) confirm, modify or set aside the order;

- (b) impose any penalty or set aside, reduce, confirm or enhance the penalty imposed by the order;
- (c) remit the case to the Council for such further enquiry as the High Court considers proper in the circumstances of the case;
- (d) pass such other order as the High Court thinks fit;

Provided that no order of the Council shall be modified or set aside unless the Council has been given an opportunity of being heard and no order imposing or enhancing a penalty shall be passed unless the person concerned has been given an opportunity of being heard.

Explanation.—In this section “High Court” and “member of the Institute” have the same meanings as in section 21.

34. Alteration in the Register and cancellation of certificate.—(1) Where an order is made under this Act reprimanding a member a record of the punishment shall be entered against his name in the Register.

(2) Where the name of any member is removed, the certificate of practice granted to him under this Act shall be recalled and cancelled.

35. Directions of the Central Government.—(1) The Central Government may from time to time issue such directions to the Council as in the opinion of the Central Government are conducive to the fulfilment of the objects of this Act and in the discharge of its functions, the Council shall be bound to carry out any such directions

(2) Directions issued under sub-section (1) may include directions to the Council to make any regulations or to amend or revoke any regulations already made.

(3) If, in the opinion of the Central Government the Council has persistently made default in giving effect to the directions issued under this section, the Central Government may, after giving an opportunity to the Council to state its case, by order, dissolve the Council, whereafter a new Council shall be constituted in accordance with the provisions of this Act with effect from such date as may be specified by the Central Government.

(4) Where the Central Government passes an order under sub-section (3) dissolving the Council, it may, pending the constitution of a new Council in accordance with the provisions of this Act, authorise any person or body of persons to take over the management of the affairs of the Institute and to exercise such functions as may be specified in this behalf by the Central Government.

36. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Central Government or the Council in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any regulations or orders made thereunder.

37. Maintenance of branch offices.—(1) Where a cost accountant in practice or a firm of such cost accountants has more than one office in India, each one of such offices shall be in the separate charge of a member of the Institute:

Provided that the Council may in suitable cases exempt any cost accountant in practice or firm of such cost accountants from the operation of this sub-section.

(2) Every cost accountant in practice or firm of such cost accountants maintaining more than one office shall send to the Council a list of offices and the persons in charge thereof and shall keep the Council informed of any changes in relation thereto.

38. Reciprocity.—(1) Where any country, specified by the Central Government in this behalf by notification in the Official Gazette, prevents persons of Indian domicile

from becoming members of any institution similar to the Institute established under this Act or from practising the profession of cost accountancy or subjects them to unfair discrimination in that country, no subject of any such country shall be entitled to become a member of the Institute or practise the profession of cost accountancy, in India.

(2) Subject to the provisions of sub-section (1), the Council may prescribe the conditions, if any, subject to which foreign qualifications relating to cost accountancy shall be recognised for the purposes of entry in the Register.

39. Power to make regulations.—(1) The Council may, by notification in the Gazette of India, make regulations for the purpose of carrying out the objects of this Act, and a copy of such regulations shall be sent to each member of the Institute.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) the standard and conduct of examinations under this Act;
- (b) the qualifications for the entry of the name of any person in the Register as a member of the Institute;
- (c) the qualification required for the purposes of sub-section (4) of section 5;
- (d) the conditions under which any examination or training may be treated as equivalent to the examination or training prescribed for members of the Institute;
- (e) the conditions under which any foreign qualification may be recognised;
- (f) the manner in which and the conditions subject to which applications for entry in the Register may be made;
- (g) the fees payable for membership of the Institute and the annual fees payable by associates and fellows of the Institute in respect of their certificates;
- (h) the manner in which elections to the Council and the Regional Councils may be held;
- (i) the particulars to be entered in the Register;
- (j) the functions of Regional Councils;
- (k) the regulation and maintenance of the status and standard of professional qualifications of members of the Institute;
- (l) the carrying out of research in accountancy;
- (m) the maintenance of libraries and publication of books and periodicals relating to cost accountancy and allied subjects;
- (n) the management of the property of the Council and the maintenance and audit of its accounts;
- (o) the summoning and holding of meetings of the Council and committees thereof, the times and places of such meetings, the procedure to be followed thereat and the number of members necessary to form a quorum;
- (p) the manner in which the annual list of members of the Institute shall be published;
- (q) the powers, duties and functions of the President and the Vice-President of the Council;
- (r) the functions of the Standing and other Committees and the conditions subject to which such functions shall be discharged;
- (s) the terms of office, and the powers, duties and functions of the Secretary and other employees of the Council;
- (t) the exercise of disciplinary powers conferred by this Act;
- (u) the terms and conditions of service of persons who have become employees of the Institute

under section 32 of this Act:

- (v) the registration and training of students and the fees to be charged therefor; and
- (vi) any other matter which is required to be, or may be, prescribed under this Act.

(3) All regulations made by the Council under this Act shall be subject to the condition of previous publication and to the approval of the Central Government.

(4) Notwithstanding anything contained in sub-sections (1) and (2), the Central Government may frame the first regulations for the purposes mentioned in this section, and such regulations shall be deemed to have been made by the Council, and shall remain in force until they are amended, altered or revoked by the Council.

THE FIRST SCHEDULE

[See sections 21 (4) and 22]

PART I

Professional misconduct in relation to cost accountants in practice

A cost accountant in practice shall be deemed to be guilty of professional misconduct, if he—

- (1) allows any person to practise in his name as a cost accountant unless such person is also a cost accountant in practice and is in partnership with or employed by himself;
- (2) pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional work, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner;

Explanation.—In this item, “partner” includes a person residing outside India with whom a cost accountant in practice has entered into partnership which is not in contravention of item (4) of this Part.

- (3) accepts or agrees to accept any part of the profits of the professional work of a lawyer, auctioneer, broker or other agent who is not a member of the Institute;
- (4) enters into partnership with any person other than a cost accountant in practice or a person resident without India who but for his residence abroad would be entitled to be registered as a member of the Institute under clause (iv) of sub-section (1) of section 4 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnerships, provided that the cost accountant shares in the fees or profits of the professional work of the partnership both within and without India;
- (5) secures, either through the services of a person not qualified to be his partner or by means which are not open to a cost accountant, any professional work;
- (6) solicits clients or professional work either directly or indirectly, by circular, advertisement, personal communication or interview or by any other means;
- (7) advertises his professional attainments or services, or uses any designation or expression other than cost accountant on professional documents, visiting cards, letter-heads or sign boards, unless it be a degree of a University established by law in India or recognised by the Central Government or a title indicating membership of the Institute of Cost and Works Accountants of India or of any other institution that has been

recognised by the Central Government or may be recognised by the Council;

- (8) accepts a position as cost accountant previously held by another cost accountant in practice without first communicating with him in writing;
- (9) charges or offers to charge, accepts or offers to accept in respect of any professional employment fees which are based on a percentage of profits or which are contingent upon the findings or results of such employment, except in cases which are permitted under any regulations made under this Act;
- (10) engages in any business or occupation other than the profession of cost accountant unless permitted by the Council so to engage;

Provided that nothing contained herein shall disentitle a cost accountant from being a director of a company unless he or any of his partners is interested in such company as accountant;

- (11) accepts a position as cost accountant previously held by some other cost accountant in practice in such conditions as to constitute undercutting;
- (12) allows a person not being a member of the Institute in practice or a member not being his partner to sign on his behalf or on behalf of his firm, any cost or pricing statements or any other statements related thereto.

PART II

Professional misconduct in relation to members of the Institute in service

A member of the Institute (other than a member in practice) shall be deemed to be guilty of professional misconduct, if he being an employee of any company, firm or person—

- (1) pays or allows or agrees to pay directly or indirectly, to any person any share in the emoluments of the employment undertaken by the member;
- (2) accepts or agrees to accept any part of fees, profits or gains from a lawyer, a cost accountant or broker engaged by such company, firm or person or agent or customer of such company, firm or person by way of commission or gratification;
- (3) discloses confidential information acquired in the course of his employment otherwise than as required by any law for the time being in force or as permitted by his employer.

PART III

Professional misconduct in relation to members of the Institute generally

A member of the Institute whether in practice or not shall be deemed to be guilty of professional misconduct, if he—

- (1) includes in any statement, return or form to be submitted to the Council any particulars knowing them to be false;
- (2) not being a fellow styles himself as a fellow;
- (3) does not supply the information called for or does not comply with the requirements asked for by the Council or any of its Committees.

THE SECOND SCHEDULE

[See sections 21 (5) and 22]

PART I

Professional misconduct in relation to cost accountants in practice requiring action by a High Court

A cost accountant in practice shall be deemed to be guilty of professional misconduct, if he—

- (1) discloses information acquired in the course of his professional engagement to any person other than the client so engaging him, without the consent of such client, or otherwise than as required by any law for the time being in force;
- (2) certifies or submits in his name or in the name of his firm a report of an examination of cost accounting and related statements, unless the examination of such statements has been made by him or by a partner or an employee in his firm or by another cost accountant in practice;
- (3) permits his name or the name of his firm to be used in connection with an estimate of cost or earnings contingent upon future transactions in a manner which may lead to the belief that the vouches for the accuracy of the forecast;
- (4) expresses his opinion on cost or pricing statements of any business or any enterprise in which he, his firm or a partner in his firm has a substantial interest, unless he discloses the interest also in his report;
- (5) fails to disclose in a cost or pricing statement a material fact known to him, which is not disclosed in a cost or pricing statement, but disclosure of which is necessary to make such statement not misleading;
- (6) fails to report a material mis-statement known to him to appear in a cost or pricing statement with which he is concerned in a professional capacity;
- (7) is grossly negligent in the conduct of his professional duties;
- (8) fails to obtain sufficient information to warrant the expression of an opinion or makes exceptions which are sufficiently material to negate the expression of an opinion;
- (9) fails to invite attention to any material departure from the generally accepted procedure of costing and pricing applicable to the circumstances;
- (10) fails to keep moneys of his client in a separate banking account or to use such moneys for purposes for which they are intended.

PART II

Professional misconduct in relation to members of the Institute generally requiring action by a High Court

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he—

- (1) contravenes any of the provisions of this Act or the regulations made thereunder;
- (2) is guilty of such other act or omission as may be specified by the Council in this behalf, by notification in the Gazette of India.

Assented to on 19-5-59

THE CENSUS (AMENDMENT) ACT, 1959 (ACT No. 22 OF 1959)

AN
ACT

to further to amend the Census Act, 1948.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Census (Amendment) Act, 1959.

2. *Amendment of section 1.*—In sub-section (2) of section 1 of the Census Act, 1948 (37 of 1948), (hereinafter referred to as the principal Act), the words “except the State of Jammu and Kashmir” shall be omitted.

3. *Insertion of new section 2.*—After section 1 of the principal Act, the following section shall be inserted, namely:—

“2. *Rule of construction respecting enactments not extending to Jammu and Kashmir.*—Any reference in this Act to the Indian Penal Code (45 of 1860) the Indian Evidence Act, 1872 (1 of 1872), shall, in relation to the State of Jammu and Kashmir, be construed as a reference to the corresponding enactment in force in that State.”

Received assent on 19-5-59

THE DISPLACED PERSONS (COMPENSATION AND REHABILITATION) AMENDMENT ACT, 1959

(21 OF 1959)

AN
ACT

further to amend the Displaced Persons Compensation and (Rehabilitation) Act, 1954.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Displaced Persons (Compensation and Rehabilitation) Amendment Act, 1959.

2. *Amendment of section 30.*—Section 30 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), shall be re-numbered, as sub-section (1) thereof, and after sub-section (1) as so re-numbered the following sub-section shall be inserted, namely:—

“(2) Notwithstanding anything contained in sub-section (1) if the Chief Settlement Commissioner is of opinion that a person is refusing or neglecting, or has refused or neglected, to pay any sum due under this Act, he may, after giving such person an opportunity of being heard, by order in writing stating the grounds therefor, direct that the provisions of sub-section (1) shall not apply to him, and thereupon such person shall cease to be entitled to the exemption conferred by that sub-section.”

Simla-4, the 13th October, 1960

No. 1-7/60-LR.—The following Acts recently passed by the Parliament of India and published in the Gazette of India Extraordinary Part II, Section I, dated 16th, 19th, 21st and 22nd September, 1960 respectively are hereby republished in the Himachal Pradesh Administration Rajpatra for the information of general public:—

1. The Banking Companies (Second Amendment) Act, 1960 (No. 37 of 1960).

2. The Central Excises (Conversion to Metric Units) Act, 1960 (No. 38 of 1960).

3. The Delhi Primary Education Act, 1960 (No. 39 of 1960).

4. The Customs Duties and Cesses (Conversion to Metric Units) Act, 1960 (No. 40 of 1960).

G. M. LAUL,
Under Secretary.

Assented on 19-9-1960.

THE BANKING COMPANIES (SECOND AMENDMENT) ACT, 1960

(ACT No. 37 OF 1960)

AN
ACT

further to amend the Banking Companies Act, 1949.

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Banking Companies (Second Amendment) Act, 1960.

Sections 2 to 9 Repealed vide Act No. 52 of 1964.

10. *Certain winding-up proceedings to be governed by original provisions.*—The amendments made in the principal Act by section 3 and section 4 shall not apply to, and in relation to, the winding-up of a banking company where any preliminary dividend has been paid in the course of such winding-up before the commencement of this Act, but the provisions of the principal Act as they stood immediately before such commencement shall apply to, and in relation to, such winding-up.

Assented to on 20-9-60

THE CENTRAL EXCISES (CONVERSION TO METRIC UNITS) ACT, 1960 (ACT NO. 38 OF 1960)

AN
ACT

further to amend certain laws relating to duties of excise for the purpose of introducing metric units in such laws.

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Central Excises (Conversion to Metric Units) Act, 1960.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Sections 2 to 8—Repealed vide Act No. 52 of 1964.

9. *Savings.*—Nothing contained in this Act shall be deemed to affect the validity of any notification, rule or order issued under any of the enactments amended thereby and in force immediately before the commencement of this Act merely by reason of the fact that the rate of any duty of excise specified therein has been expressed in terms of annas, pice or pies or with reference to any weight or measure other than a standard mass or measure under the Standards of Weights and Measures Act, 1956 (89 of 1956); and every such notification, rule or order shall, until altered, repealed or amended by the Central Government or other competent authority, continue to have effect as if this Act had not been passed.

First and Second Schedules—Repealed vide Act No. 52 of 1964.

THE DELHI PRIMARY EDUCATION ACT, 1960

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Schemes for primary education.
4. Primary education to be compulsory in areas covered by schemes.
5. Grants-in-aid.
6. Duty of local authority to prepare lists of children.
7. Attendance authorities.
8. Attendance authority to notify parent of his obligation towards his child.
9. Responsibility of parent to cause his child to attend school.
10. Reasonable excuse for non-attendance.
11. Special schools for physically or mentally deficient children.

12. Special provision for part-time education in certain cases.
13. Attendance orders.
14. Children not to be employed so as to prevent them from attending school.
15. Primary education to be free.
16. Age of child how to be computed.
17. Failure of local authority to prepare or implement scheme.
18. Penalty for contravention of section 13.
19. Penalty for contravention of section 14.
20. Courts competent to try offences.
21. Cognizance of offences.
22. Certain persons to be public servants.
23. Protection of action taken in good faith.
24. Delegation of powers.
25. Power to make rules.
26. Repeal of Punjab Primary Education Act.

Assented to on 20-9-60

THE DELHI PRIMARY EDUCATION ACT, 1960 (ACT NO. 39 OF 1960)

AN
ACT

to provide for free and compulsory primary education for children in the Union territory of Delhi.

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Delhi Primary Education Act, 1960.

(2) It extends to the Union territory of Delhi.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

- (a) “academic year” means the year beginning on such date as a local authority may specify with respect to any specified area or with respect to approved schools generally or any approved school or class of approved schools in particular within its jurisdiction;
- (b) “approved school” means any school in any specified area within the jurisdiction of a local authority imparting primary education which—
 - (i) is under the management of the State Government or the local authority, or
 - (ii) being under any other management, is recognised by the local authority as an approved school for the purposes of this Act;
- (c) “attendance authority” means any person appointed to be an attendance authority under section 7;
- (d) “to attend an approved school” means to be present for instruction at an approved school on so many days in a year and at such time or times on each one of those days as may be fixed by the local authority concerned;
- (e) “child” means a boy or girl within such age group, not being less than six or more than fourteen, as may be specified in a declaration made under section 4;
- (f) “local authority” means the Municipal Corporation of Delhi, the New Delhi Municipal Committee and the Delhi Cantonment Board;

- (g) "parent", in relation to any child, includes a guardian and every person who has the actual custody of the child;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "primary education" means education up to such class or standard, not beyond the eighth class or standard, as may be prescribed;
- (j) "rural areas" shall have the meaning assigned to it in section 2 of the Delhi Municipal Corporation Act, 1957 (66 of 1957);
- (k) "special school" means any institution which imparts such primary education as is in the opinion of the State Government suitable for children suffering from any physical or mental defect;
- (l) "specified area" means any area within the jurisdiction of a local authority in which primary education is declared by that authority to be compulsory under section 4.

3. *Scheme for primary education.*—(1) It shall be the duty of every local authority to provide for compulsory primary education for children ordinarily resident within its jurisdiction, and for this purpose it shall, from time to time, submit to the State Government such proposals in the form of a scheme as it may think fit providing for such compulsory primary education in the whole or any part of the area within its jurisdiction for children of such ages and up to such class or standard as it may decide.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, at any time, call upon a local authority to submit to it within such time as may be specified a scheme for compulsory primary education in such area within the jurisdiction of the local authority for children ordinarily resident therein, and of such ages and up to such class or standard, as the State Government may specify.

(3) The scheme submitted under sub-section (1) or sub-section (2) shall be in such form as the State Government may specify and shall contain the following particulars,—

- (a) the area in which primary education shall be compulsory;
- (b) the approximate number of children to whom the scheme will apply, classified according to age and mother-tongue;
- (c) a list of existing approved schools and the schools, if any, proposed to be opened for the purpose, classified by languages in which instruction is given or is proposed to be given;
- (d) the number of teachers already employed and the additional staff proposed to be recruited;
- (e) the recurring and non-recurring cost of the scheme; and
- (f) such other particulars as may be prescribed.

(4) The State Government may, after making such inquiry as it may consider necessary, sanction with or without modifications the scheme submitted by the local authority under sub-section (1) or sub-section (2).

4. *Primary education to be compulsory in areas covered by schemes.*—(1) On receipt of sanction under sub-section (4) of section 3, the local authority shall give effect to the scheme so sanctioned by means of a declaration that with effect from the first day of the next academic year primary education shall be compulsory in any area specified in the declaration for children ordinarily resident in that area and within such age group and up to such class or standard as may be specified in the declaration.

(2) Every declaration under sub-section (1) shall—

- (a) be published in the Official Gazette and in such other manner as the local authority may decide;
- (b) be so made as to ensure that there is an interval of not less than one hundred and twenty days between the date of the publication of the declaration and the first day of the next academic year.

5. *Grants-in-aid.*—The State Government shall, in respect of every scheme sanctioned under sub-section (4) of section 3 or prepared under sub-section (1) of section 17, bear such part of the recurring and non-recurring cost of the scheme as it may from time to time determine.

6. *Duty of local authority to prepare lists of children.*—It shall be the duty of the local authority to cause to be prepared as early as possible after the publication of a declaration under section 4, and in such manner as may be prescribed, a list of children in any specified area; and the local authority shall cause the list to be revised at such intervals as may be prescribed.

7. *Attendance authorities.*—(1) The local authority may appoint as many persons as it thinks fit to be attendance authorities for the purposes of this Act, and may also appoint as many persons as it considers necessary to assist the attendance authorities in the discharge of their duties.

(2) In the exercise of any of the powers conferred by or under this Act, the attendance authority or any person appointed to assist the attendance authority may put such questions to any parent or require any parent to furnish such information, about his child as it or he considers necessary, and every such parent shall be bound to answer such questions or to furnish such information, as the case may be, to the best of his knowledge or belief.

8. *Attendance authority to notify parent of his obligation towards his child.*—It shall be the duty of the attendance authority to notify the parent of every child to whom the declaration under section 4 applies that he is under an obligation to cause the child to attend an approved school with effect from the beginning of the next academic year.

9. *Responsibility of parent to cause his child to attend school.*—It shall be the duty of the parent of every child to cause the child to attend an approved school unless there be a reasonable excuse for his non-attendance within the meaning of section 10.

10. *Reasonable excuse for non-attendance.*—For the purposes of this Act, any of the following circumstances shall be deemed to be a reasonable excuse for the non-attendance of a child at an approved school,—

- (a) that there is no approved school within the prescribed distance from his residence;
- (b) that the child is receiving instruction in some other manner which is declared to be satisfactory by the State Government or by an officer authorised by it in this behalf;
- (c) that the child has already completed primary education up to the class or standard specified in the declaration under section 4;
- (d) that the child suffers from a physical or mental defect which prevents him from attendance;
- (e) that there is any other compelling circumstance which prevents the child from attending school, provided the same is certified as such by the attendance authority;
- (f) such other circumstance as may be prescribed.

11. *Special schools for physically or mentally deficient children.*—If there is in existence a special school within

the prescribed distance from the residence of a child who is suffering from a physical or mental defect, the attendance authority may, if it is satisfied that the child is not receiving any instruction in some other manner considered by it to be satisfactory, by order require the child to attend the special school; and it shall be the duty of the parent of such child to cause the child to attend the special school unless there be a reasonable excuse for the non-attendance of the child within the meaning of clause (e) of section 10.

12. Special provision for part-time education in certain cases.—(1) If the attendance authority is satisfied that a child, due to economic or other circumstances connected with the family to which the child belongs, is unable to attend an approved school in the manner required by or under this Act, it may, by order and subject to such conditions, if any, as it may think fit to impose, permit the child to attend any approved school established as a part-time institution or in which primary education is imparted on a part-time basis.

(2) Any parent who causes a child in respect of whom an order under sub-section (1) has been made to attend an approved school in the manner specified in the order shall be deemed to have complied with the provisions of this Act.

13. Attendance orders.—(1) Whenever the attendance authority has reason to believe that the parent of a child has failed to cause the child to attend an approved school and that there is no reasonable excuse for the non-attendance of the child within the meaning of section 10, it shall hold an inquiry in the prescribed manner.

(2) If as a result of the inquiry the attendance authority is satisfied that the child is liable to attend an approved school under this Act and that there is no reasonable excuse for his non-attendance within the meaning of section 10, it shall pass an attendance order in the prescribed form directing the parent to cause the child to attend the approved school with effect from the date specified in the order.

(3) An attendance order passed against a parent in respect of his child under this section shall, subject to the provisions of sub-section (6), remain in force for so long as this Act continues to apply to the child.

(4) If any parent against whom an attendance order has been passed in respect of his child under sub-section (2) transfers the custody of the child to another person during the period in which the attendance order is in force, such parent shall be bound to immediately inform the attendance authority in writing of such transfer.

(5) Where an attendance order has been passed against a parent in respect of his child under this section, such order shall have effect in relation to every other person to whom the custody of the child may be transferred during the period in which the attendance order is in force as it has effect in relation to the person against whom it is passed.

(6) A parent may at any time apply to the attendance authority for cancellation of an attendance order on the ground—

(i) that he is no longer the parent in respect of the child; or

(ii) that circumstances have arisen which provide a reasonable excuse for non-attendance;

and thereupon the attendance authority may, after holding an inquiry in the prescribed manner, cancel or modify the attendance order.

14. Children not to be employed so as to prevent them from attending school.—No person shall employ a

child in a manner which shall prevent the child from attending an approved school.

15. Primary education to be free.—(1) No fee shall be levied in respect of any child for attending an approved school which is under the management of the State Government or a local authority.

(2) Where, in respect of any child an attendance order has been passed under section 13 and the only school which he can attend is an approved school under private management falling within sub-clause (ii) of clause (b) of section 2, the local authority shall take such steps as it may think fit for the purpose of ensuring that the primary education which the child is to receive is free.

16. Age of child how to be computed.—The age of a child for the purposes of this Act shall be computed in terms of years completed by the child on or before the first day of the academic year:

Provided that where the birthday of a child falls on a day not later than sixty days from the first day of the academic year, the birthday shall be deemed to fall on the first day of the academic year for the purpose of computing the age of the child.

17. Failure of local authority to prepare or implement scheme.—(1) If any local authority when called upon to submit a scheme under sub-section (2) of section 3 fails so to do, or, after a scheme has been sanctioned under sub-section (4) of section 3 fails to give effect to a scheme as so sanctioned, whether wholly or in part, the State Government may, after making such inquiry as it may consider necessary and after giving an opportunity to the local authority to be heard in the matter, appoint any person to prepare the scheme or to give effect to it, as the case may be, and may direct that such part of the expenses as that Government may determine shall be defrayed out of the funds belonging to the local authority.

(2) Where any such direction as is referred to in sub-section (1) is issued, any person who has for the time being the custody of any moneys on behalf of the local authority, either as a banker or in any other capacity, shall, notwithstanding anything contained in any law for the time being in force, be bound to comply with such direction.

18. Penalty for contravention of section 13.—(1) If any parent fails to comply with an attendance order passed under section 13, he shall be punishable with fine not exceeding two rupees, and, in the case of a continuing contravention, with an additional fine not exceeding fifty naye paise for every day during which such contravention continues after conviction for the first of such contraventions:

Provided that the amount of fine payable by any one person in respect of any child in any one year shall not exceed fifty rupees.

(2) If any person fails to furnish any information as required by sub-section (4) of section 13, he shall be punishable with fine which may extend to twenty-five rupees.

19. Penalty for contravention of section 14.—If any person contravenes the provisions of section 14, he shall be punishable with fine which may extend to twenty-five rupees and, in the case of a continuing contravention, with an additional fine not exceeding one rupee for every day during which such contravention continues after conviction for the first of such contraventions.

20. Courts competent to try offences.—(1) The courts competent to try offences under this Act shall be the following,—

(a) in rural areas to which the Delhi Panchayat Raj

Act, 1954 (Delhi Act III of 1955) the Panchayati Adalat, constituted under section 50 of that Act, within whose jurisdiction the person committing the offence resides;

(b) in other areas, the court of a magistrate having jurisdiction.

(2) Any offence triable by the Panchayati Adalat shall be tried in the manner provided for the trial of criminal cases by the Delhi Panchayat Raj Act, 1954 (Delhi Act III of 1955), and any offence triable by a magistrate shall be tried in a summary way.

21. Cognizance of offences.—No court shall take cognizance of an offence under this Act except on the complaint of an attendance authority or any other person authorised in this behalf by the local authority by general or special order.

22. Certain persons to be public servants.—The attendance authority, every person appointed to assist the attendance authority under sub-section (1) of section 7 and every person authorised to make complaints under section 21 shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

23. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Government or any authority or person in respect of anything which is in good faith done or intended to be done under this Act.

24. Delegation of powers.—(1) The State Government may, by notification in the Official Gazette and subject to such conditions, if any, as may be specified in the notification, authorise any officer or authority subordinate to it to exercise all or any of the powers conferred on the State Government by or under this Act.

(2) A local authority may, by general or special order and with the previous approval of the State Government, authorise any officer or authority subordinate to it to exercise all or any of the powers conferred on a local authority by or under this Act.

25. Power to make rules.—(1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the class or standard education up to which shall be considered as primary education;
- (b) the particulars to be contained in any scheme submitted under this Act, including particulars relating to the provision made or to be made in any area for the establishment of special schools or of schools imparting primary education on a part-time basis or for the supply of food or refreshments, books, writing materials, uniforms or other necessary amenities, to children while attending school;
- (c) the manner in which lists of children may be prepared in any specified area under section 6, the intervals at which the lists shall be kept revised and persons with whose assistance such lists shall be prepared;
- (d) the functions to be performed, and the manner in which such functions may be performed, by attendance authorities;
- (e) the distance beyond which a child may not be compelled to attend an approved school;
- (f) the circumstances which may be regarded as reasonable excuses for the non-attendance of a child within the meaning of section 10;

(g) the manner in which any inquiry under this Act may be held;

(h) the form in which an attendance order under this Act may be passed;

(i) the registers, statements and other information to be maintained or furnished by approved schools for the purposes of this Act;

(j) any other matter which has to be, or may be, prescribed under this Act.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

26. Repeal of Punjab Primary Education Act.—On the date on which primary education becomes compulsory in any specified area, the Punjab Primary Education Act, 1940 (Punjab Act XVIII of 1940) as in force in the Union territory of Delhi shall stand repealed in such area.

Assented to on 21-9-60

THE CUSTOMS DUTIES AND CESSES (CONVERSION TO METRIC UNITS) ACT, 1960 (ACT NO. 40 OF 1960)

AN
ACT

furth^r to amend certain laws relating to customs duties and cesses for the purpose of adopting metric units in those laws.

Be it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Customs Duties and Cesses (Conversion to Metric Units) Act, 1960.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Sections 2 to 9—Repealed under Act No. 52 of 1964

10. Savings.—Nothing contained in this Act shall be deemed to affect the validity of any notification, rule or order issued under any of the enactments amended thereby and in force immediately before the commencement of this Act merely by reason of the fact that the rate of any customs duty or cess specified therein has been expressed in terms of annas, pice or pies or with reference to any weight or measure other than a standard mass or measure under the Standards of Weights and Measures Act, 1956 (89 of 1956) and every such notification, rule or order shall, until altered, repealed or amended by the Central Government or other competent authority, continue to have effect as if this Act had not been passed.

Schedule—Repealed vide Act No. 52 of 1964.

Simla-4, the 20th November, 1959

No. I.R. 16-12/58.—The following Act recently passed by the Parliament of India and already published in the Gazette of India Extraordinary Part II, Section I, dated 11th September, 1959 is hereby republished in the Himachal Pradesh Administration Rajpatra for the information of general public:—

The State Bank of India (Subsidiary Banks) Act,
1959 (No. 38 of 1959).

K. R. TANDON,
Under Secretary (Judicial).

THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959

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Received Assent on 10-9-59

THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959 (38 OF 1959)

AN
ACT

to provide for the formation of certain Government or Government associated banks as subsidiaries of the State Bank of India and for the constitution, management and control of the subsidiary banks so formed, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title.*—This Act may be called the State Bank of India (Subsidiary Banks) Act, 1959.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “appointed day” means,—

(i) in relation to an existing bank, the date on

which the corresponding new bank in constituted under section 3;

- (ii) in relation to a new bank, the date on which that new bank is constituted under section 3;
- (iii) in relation to the Hyderabad Bank, the date on which the amendments to the State Bank of Hyderabad Act, 1956 (79 of 1956) take effect under Part VII of the Third Schedule;
- (iv) in relation to the Saurashtra Bank, the date on which the amendments to the Saurashtra State Banks (Amalgamation) Ordinance, 1950, (10 of 1950) take effect under Part V of the Third Schedule;
- (b) "corresponding bank" means,—
 - (i) in relation to the State Bank of Bikaner, the Bank of Bikaner, Limited;
 - (ii) in relation to the State Bank of Indore, the Bank of Indore, Limited;
 - (iii) in relation to the State Bank of Jaipur, the Bank of Jaipur, Limited;
 - (iv) in relation to the State Bank of Mysore, the Bank of Mysore, Limited;
 - (v) in relation to the State Bank of Patiala, the Bank of Patiala;
 - (vi) in relation to the State Bank of Travancore, the Travancore Bank, Limited;
- (c) "corresponding new bank" means,—
 - (i) in relation to the Bank of Bikaner, Limited, the State Bank of Bikaner;
 - (ii) in relation to the Bank of Indore, Limited, the State Bank of Indore;
 - (iii) in relation to the Bank of Jaipur, Limited, the State Bank of Jaipur;
 - (iv) in relation to the Bank of Mysore, Limited, the State Bank of Mysore;
 - (v) in relation to the Bank of Patiala, the State Bank of Patiala;
 - (vi) in relation to the Travancore Bank, Limited, the State Bank of Travancore;
- (d) "existing bank" means any of the following banks, namely:—
 - (i) Bank of Bikaner, Limited;
 - (ii) Bank of Indore, Limited;
 - (iii) Bank of Jaipur, Limited;
 - (iv) Bank of Mysore, Limited;
 - (v) Bank of Patiala;
 - (vi) Travancore Bank, Limited;
- (e) "Hyderabad Bank" means the Hyderabad State Bank constituted under the Hyderabad State Bank Act, 1950F, and renamed the State Bank of Hyderabad under sub-section (1) of section 3 of the State Bank of Hyderabad Act, 1956 (79 of 1956);
- (f) "new bank" means any of the banks constituted under section 3;
- (g) "prescribed" means prescribed by regulations made under this Act;
- (h) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (2 of 1934);
- (i) "Saurashtra Bank" means the State Bank of Saurashtra constituted under the Saurashtra State Banks (Amalgamation) Ordinance, 1950 (10 of 1950);
- (j) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);
- (k) "subsidiary bank" means any new bank and includes the Hyderabad Bank and the Saurashtra Bank;
- (l) "Tribunal" means the Tribunal constituted under section 15.

CHAPTER II

CONSTITUTION OF NEW BANKS

3. *Establishment of new banks.*—With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, there shall be constituted the following new banks, namely:—

- (a) the State Bank of Bikaner;
- (b) the State Bank of Indore;
- (c) the State Bank of Jaipur;
- (d) the State Bank of Mysore;
- (e) the State Bank of Patiala;
- (f) the State Bank of Travancore;

and different dates may be specified for different new banks.

4. *New banks to be bodies corporate.*—(1) Every new bank shall be a body corporate with perpetual succession and a common seal and shall sue and be sued in its name.

(2) The body corporate constituting each of the new banks shall consist of State Bank and other shareholders, if any, for the time being of the new bank.

(3) Every new bank shall carry on the business of banking and other business in accordance with the provisions of this Act, and shall have power to acquire and hold property, whether movable or immovable, for the purposes of its business and to dispose of the same.

5. *Head office and branches of new banks.*—(1) The head office of each of the new banks shall be at such place as the Central Government may by notification in the Official Gazette, from time to time, specify.

(2) Every new bank shall maintain as its branches all branches of the corresponding bank in existence immediately before the appointed day, and shall not establish any new branch or discontinue any branch except in consultation with State Bank and with the approval of the Reserve Bank.

6. *Authorised capital of new banks.*—(1) Subject to the provisions of this Act, the authorised capital of the State Bank of Mysore and the State Bank of Travancore shall be rupees two crores each, and the authorised capital of every other new bank shall be rupees one crore.

(2) The authorised capital of every new bank shall be divided in to shares of one hundred rupees each.

(3) Notwithstanding anything contained in this section, the State Bank may, with the approval of the Reserve Bank, authorise a new bank to increase or reduce its authorised capital:

Provided that where the authorised capital is so increased, the shares issued shall be of the denomination specified in sub-section (2).

7. *Issued capital of new banks.*—(1) On the appointed day, the issued capital of a new bank shall consist of such amount, divided into fully paid-up shares of hundred rupees each, as the State Bank may, with the approval of the Reserve Bank, fix.

(2) All shares in the issued capital of a new bank shall, on the appointed day, stand allotted to the State Bank.

(3) The State Bank shall, as soon as may be, after the determination, if any, by the Tribunal, of the amount of compensation payable in respect of an existing bank, consider whether any increase in or reduction of, the issued capital of the corresponding new bank as fixed under sub-section (1), by way of adjustment, or transfer from, or to, the reserves of such bank, or in any other

manner, is necessary or expedient and may, thereafter with the approval of the Reserve Bank, direct that bank to increase or reduce its issued capital.

(4) Without prejudice to the provisions contained in sub-section (3), a new bank may, with the approval of the State Bank and the Reserve Bank, increase from time to time, its issued capital and the capital so increased shall, consist of fully paid-up shares to be issued in such manner as the State Bank may, with the approval of the Reserve Bank, direct.

(5) No increase or reduction in the issued capital of a new bank shall be made in such a manner that the State Bank holds at any time less than fifty-five per cent of the issued capital of that bank.

8. *Reserve fund of the new banks.*—(1) Every new bank shall establish a reserve fund which, subject to the provisions of sub-section (3) of section 7 and of sub-section (2) of this section, shall—

- (a) on the appointed day, consist of such sum as the State Bank, with the approval of the Reserve Bank, may determine; and
- (b) after the appointed day, consist of the sum aforesaid together with such further sums as may be transferred to the reserve fund by the new bank out of its annual net profits before declaring a dividend.

(2) The State Bank shall, as soon as may be after the determination, if any, of the amount of compensation by the Tribunal, in respect of an existing bank, consider whether any increase in, or reduction of, the reserve fund of the corresponding new bank, by way of adjustment by transfer from, or to, any account, or towards provision for bad and doubtful debts depreciation of any assets or contingencies, or for any other purpose, is necessary, and may, thereafter, with the approval of the Reserve Bank, direct that bank to so increase or reduce its reserve fund.

9. *Transfer of shares of existing banks to State Bank.*—On the constitution of a new bank, all shares in the capital of the corresponding bank, where such corresponding bank has a share capital, shall stand transferred to, and shall vest in, the State Bank, from of all trusts, liabilities and encumbrances.

10. *Transfer of undertaking of existing banks to new banks.*—(1) Subject to the other provisions contained in this Act, when a new bank is constituted, the undertaking of the corresponding bank shall stand transferred to, and vest in, the new bank.

(2) The undertaking of the corresponding bank referred to in sub-section (1) shall be deemed to include all rights, powers, authorities and privileges and all property, movable and immovable, including cash balances, reserve funds, investments and all other interests and rights in, or arising out of, such property and all books, accounts and documents relating thereto as may be in the possession of that bank immediately before the appointed day and shall also be deemed to include all debts, liabilities, and obligations of whatever kind, then existing of that Bank.

(3) Without prejudice to the other provisions contained in this Act, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature, subsisting or having effect immediately before the appointed day and to which any existing bank is a party, or which are in favour of that bank, shall be of full force and effect against or in favour of the corresponding new bank, as the case may be, and may be enforced or acted upon as fully and effectually as if instead of the existing bank the corresponding new

bank had been a party thereto or as if they had been issued in favour of the corresponding new bank.

(4) If, on the appointed day, any suit, appeal or other legal proceeding of whatever nature by or against an existing bank is pending, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of transfer to the corresponding new bank of the undertaking of the existing bank, or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the corresponding new bank.

11. *Transfer of services of employees of existing banks.*—(1) Save as otherwise provided in this Act, every employee of an existing bank in the employment of that bank immediately before the appointed day, shall, on and from that day, become an employee of the corresponding new bank and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, gratuity and other matters as he would have held the same on the appointed day, if the undertaking of the existing bank had not been transferred to and vested in the corresponding new bank, and shall continue to do so unless and until his employment in that bank is terminated or until his remuneration or other terms and conditions of service are revised or altered by the corresponding new bank under, or in pursuance of, any law, or in accordance with any provision which for the time being, governs his service:

Provided that nothing contained in this sub-section shall apply to an employee of the Bank of Patiala who holds a civil post under the State of Punjab unless, prior to the appointed day, he has intimated his consent to become an employee of the State Bank of Patiala by notice in writing, given to the Government of that State through the Bank of Patiala.

(2) Any person who, on the appointed day, is entitled to, or is in receipt of, a pension or other superannuation or compassionate allowance or other benefit from an existing bank or from any provident, pension or other fund or from any authority administering such fund, shall be entitled to be paid by, and to receive from, the corresponding new bank or any provident, pension or other fund or from any authority administering such fund, the same pension, allowance or benefit, so long as he observes the conditions on which the pension, allowance or benefit was granted, and if any question arises whether he has so observed such conditions, the question shall be determined by the State Bank and its decision thereon shall be final.

(3) For the persons who immediately before the appointed day are the trustees of, or the members of any authority administering, any fund constituted for the benefit of the employees of an existing bank, there shall be substituted as trustees or members such persons as the State Bank may, by general or special order, specify.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or any other law or in any agreement for the time being in force, the transfer from an existing bank of the services of any officer or employee of that bank to the corresponding new bank in terms of this section shall not entitle any such officer or employee, to any compensation to which he would, but for this provision, have been entitled under any such law or agreement, and no claim in respect of such compensation shall be entertained by any court, tribunal or other authority.

12. *Special provisions for transfer of foreign assets.*—(1) If, according to the laws of any country outside India,

the provisions of this Act by themselves are not effective to transfer or vest any asset or liability situated in that country which forms part of the undertaking of an existing bank to, or in, the corresponding new bank, the affairs of the existing bank in relation to such asset or liability shall, on and from the appointed day, stand entrusted to the general manager for the time being of the corresponding new bank, and the general manager may exercise all powers and do all such acts and things as are exercised or done by the existing bank for the purpose of effectively winding up the affairs of that bank.

(2) The general manager of the corresponding new bank shall, in exercise of the powers conferred on him by sub-section (1), take all such steps as may be required by the laws of any such country outside India for the purpose of effecting such transfer or vesting, and in connection therewith the general manager may either himself or through any person authorised by him in this behalf, realise any asset and discharge any liability of the existing bank and transfer the net proceeds thereof to the corresponding new bank.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), on and from the appointed day, no person shall make any claim or demand or take any proceeding in India against any existing bank or any person acting in its name or on its behalf except in so far as may be necessary for enforcing the provisions of this section or except in so far as it relates to any offence committed by such person.

CHAPTER III COMPENSATION

13. *Compensation to shareholders of existing banks other than the Bank of Patiala.*—(1) Every person who and any State Government which immediately before the appointed day is registered as a holder of shares in the books of an existing bank shall be given by the State Bank such compensation in respect of the transfer to the State Bank of the shares in the capital of that bank as is determined in accordance with the principles contained in the First Schedule.

(2) The amount of compensation to be given in accordance with the principles contained in the First Schedule shall be determined in the first instance by the State Bank, in consultation with the Reserve Bank, and shall be offered by it to all those to whom compensation is payable under sub-section (1) in full satisfaction thereof.

(3) If the amount of compensation offered by the State Bank in terms of sub-section (2) is not acceptable to any shareholder of an existing bank, such shareholder may, before such date as may be notified by the Central Government in the Official Gazette, request the Central Government, in writing, to have the matter referred to the Tribunal.

(4) If, before the date notified under sub-section (3), the Central Government receives requests, in terms of that sub-section, from not less than one-fourth in number of the shareholders, holding not less than one-fourth in value of the paid-up share capital of the existing bank, the Central Government shall have the matter referred to the Tribunal for decision.

(5) If, before the date notified under sub-section (3), the Central Government does not receive requests as provided in that sub-section, the amount of compensation offered by the State Bank, and where a reference has been made to the Tribunal, the amount determined by it, shall be the compensation payable under sub-section (1) and shall be final and binding on all parties concerned.

(6) Subject to the provisions of the succeeding sub-sections, the amount of compensation shall be paid,—

(a) if the shareholder has not applied for shares of the corresponding new bank in accordance with the provisions of sub-section (7), by a cheque drawn on the State Bank; and

(b) if he has applied for shares of the corresponding new bank in accordance with the provisions of that sub-section, in shares of the corresponding new bank to the extent of the value of such shares allotted to him and the balance by a cheque drawn on the State Bank.

(7) Any shareholder of an existing bank to whom compensation is payable under this section may, before the expiry of three months from the date of the final determination of the amount of such compensation under sub-section (5), or such extended period as the State Bank may think fit in any particular case to allow, apply to the State Bank for the transfer to him of shares in the capital of the corresponding new bank in lieu of such compensation or part thereof; and for the purposes of such transfer, the value of each share of the corresponding new bank shall be such as may be determined in this behalf by the State Bank with the approval of the Reserve Bank.

(8) On receipt of an application under sub-section (7), the State Bank shall issue to the corresponding new bank a warrant, in the form specified in the rules made under this Act, directing it to transfer in favour of the person specified in the warrant such number of shares as may be allotted to the applicant in accordance with sub-sections (9) and (10), out of the shares in the capital of that bank standing allotted to the State Bank under the provisions of this Act, and the corresponding new bank shall be bound to comply with such warrant.

(9) A shareholder of an existing bank who has applied for shares in the capital of the corresponding new bank shall be allotted—

(a) such number of shares, having such total face value as would bear to forty-five per cent of the issued capital of the corresponding new bank the same proportion as the paid-up value of his shares in the capital of the existing bank in respect of which he is paid compensation bears to the total paid-up capital of that bank; and

(b) if the total number of shares allotted under clause (a) to all applicants is less than forty-five per cent of the issued capital of the corresponding new bank, such number of additional shares as the State Bank may deem fit having regard to the provisions of this Act, the circumstances of the case and the desirability of securing as wide a distribution of shares among as large a number of shareholders as possible.

Explanation.—For the purpose of determining the number of shares under this sub-section fractions of share shall be disregarded.

(10) Notwithstanding anything contained in sub-section (9), an allotment of shares under that sub-section shall not be made in such a manner that the State Bank holds at any time less than fifty-five per cent of the issued capital of the corresponding new bank.

(11) A warrant issued by the State Bank under sub-section (8) shall not be liable to duty under the Indian Stamp Act, 1899 (2 of 1899).

(12) Nothing contained in this section shall affect the rights *inter se* between the holder of any share in an existing bank, and any other person who may have an interest

in such share and such other person shall be entitled to enforce his interest against the compensation awarded to the holder of such share, but not against the State Bank.

(13) In this section, the expression "existing bank" does not include the Bank of Patiala and the expression "corresponding new bank" does not include the State Bank of Patiala.

14. Compensation payable by the State Bank in respect of the Bank of Patiala, the Saurashtra Bank and the Hyderabad Bank.—(1) The State Government of Punjab in respect of the Bank of Patiala, the State Government of Bombay in respect of the Saurashtra Bank and the Reserve Bank in respect of the Hyderabad Bank, shall be given, by reason of the provisions of this Act or of the amendments contained in Part V for Part VII of the Third Schedule, such compensation by the State Bank as is determined in accordance with the principles contained in the First Schedule.

(2) The amount of compensation to be given in accordance with the principles contained in the First Schedule shall be determined in the first instance by the State Bank, and shall be offered by it to the State Government of Punjab, the State Government of Bombay, or the Reserve Bank, as the case may be, in full satisfaction of the compensation payable under sub-section (1):

Provided that in determining the amount of compensation to be offered to the State Government of Punjab or the State Government of Bombay, the State Bank shall consult the Reserve Bank.

(3) If the amount of compensation offered by the State Bank in terms of sub-section (2) is not acceptable to the State Government of Punjab, the State Government of Bombay or the Reserve Bank, as the case may be, the State Government concerned or the Reserve Bank, may, before such date as may be notified by the Central Government in the Official Gazette, request the Central Government to have the matter referred to the Tribunal for decision, and where any such request is received, the Central Government shall refer the matter accordingly.

(4) If, before the date notified under sub-section (3), the State Government of Punjab, the State Government of Bombay or the Reserve Bank, as the case may be, has not made any such request, the amount of compensation offered by the State Bank, and where a reference has been made to the Tribunal, the amount determined by it, shall be the compensation payable under sub-section (1) and shall be final and binding on all parties concerned.

(5) The amount of compensation shall be paid by a cheque drawn on the Reserve Bank.

15. Constitution of the Tribunal.—(1) The Central Government, may for the purposes of this Act constitute a Tribunal which shall consist of a Chairman and two other members.

(2) The Chairman shall be a person who is, or has been, a Judge of a High Court or has been a Judge of the Supreme Court and of the two other members, one shall be a person, who, in the opinion of the Central Government has had experience of commercial banking and the other shall be a person who is a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949).

(3) If, for any reason, a vacancy occurs in the office of the Chairman or any other member of the Tribunal, the Central Government shall fill the vacancy by appointing another person thereto in accordance with the provisions of sub-section (2), and any proceeding may be continued before the Tribunal so re-constituted from the stage at which the vacancy occurred.

(4) The Tribunal may, for the purpose of determining any compensation payable under this Act, choose one or more persons having special knowledge or experience of any relevant matter to assist it in the determination of such compensation.

16. Tribunal to have powers of a civil court.—(1) The Tribunal shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits; and
- (d) issuing commissions for the examination of witnesses or documents.

(2) Notwithstanding anything contained in sub-section (1) or in any other law for the time being in force the Tribunal shall not compel the Reserve Bank, the State Bank or any subsidiary bank—

- (a) to produce any books of account or other documents which the Reserve Bank, the State Bank, or the subsidiary bank claims to be of a confidential nature;
- (b) to make any such books or documents part of the record of the proceedings before the Tribunal; or
- (c) to give inspection of any such books or documents to any party before it or to any other person.

17. Procedure of the Tribunal.—(1) The Tribunal shall have power to regulate its own procedure.

(2) The Tribunal may hold the whole or any part of its enquiry *in camera*.

(3) Any clerical or arithmetical mistake in any order of the Tribunal or any error arising therein from any accidental slip or omission may at any time be corrected by the Tribunal either of its own motion or on the application of any of the parties.

CHAPTER IV

SHARES OF THE SUBSIDIARY BANKS

18. Transferability of shares.—(1) Save as otherwise provided in sub-section (2), the shares of a subsidiary bank shall be freely transferable.

(2) Nothing contained in sub-section (1) shall entitle the State Bank to transfer any shares held by it in any subsidiary bank if such transfer will result in reducing the shares held by it to less than fifty-five per cent of the issued capital of that subsidiary bank.

19. Restriction on individual holdings.—(1) No person shall be registered as a shareholder in respect of any shares in a subsidiary bank held by him, whether in his own name or jointly with any other person, in excess of two hundred shares, or be entitled to payment of any dividend on the excess shares held by him, or to exercise any of the rights of a shareholder in respect of such excess shares otherwise than for the purpose of selling them:

Provided that nothing contained in this sub-section shall apply to—

- (a) the State Bank;
- (b) a State Government;
- (c) a Corporation;
- (d) an insurer as defined in the Insurance Act, 1938 (4 of 1938);
- (e) a local authority;
- (f) a co-operative society;
- (g) a trustee of a public or private religious or charitable trust;

(h) a shareholder of an existing bank who is allotted any shares under sub-section (9) of section 13.

(2) Notwithstanding anything contained in sub-section (1), no person referred to in the proviso to that sub-section other than the State Bank, shall be entitled to exercise voting rights in respect of any shares held by such person in excess of five per cent of the issued capital of the subsidiary bank concerned.

20. *Shares to be approved securities.*—Notwithstanding anything contained in the Acts hereinafter mentioned in this section, the shares of a subsidiary bank shall be deemed to be included among the securities enumerated in section 20 of the Indian Trusts Act, 1882 (2 of 1882), and also to be approved securities for the purposes of the Insurance Act, 1938 (4 of 1938), and the Banking Companies Act, 1949 (10 of 1949).

21. *Register of shareholders.*—Every subsidiary bank shall keep at its head office a register, in one or more books, of the shareholders and shall enter therein the following particulars so far as they may be available:—

- (i) the names, addresses and occupations, if any, of the shareholders and a statement of the shares held by each shareholder, distinguishing each share by its denoting number;
- (ii) the date on which each person is so entered as a shareholder;
- (iii) the date on which any person ceases to be a shareholder; and
- (iv) such other particulars as may be prescribed.

22. *Trusts not to be entered on the register.*—Notwithstanding anything contained in section 19, no notice of any trust, express, implied or constructive, shall be entered on the register of shareholders of a subsidiary bank or be receivable by it in respect of its shares.

CHAPTER V

MANAGEMENT OF SUBSIDIARY BANKS

23. *Certain officers to vacate office.*—Every person holding office as chairman, director, member of the Board of Management (including a member of a local or advisory committee), managing director, general manager, manager (other than manager of a branch), deputy managing director, deputy general manager, assistant general manager or adviser, as the case may be, in an existing Bank (other than Bank of Patiala), the Hyderabad Bank and the Saurashtra Bank immediately before the appointed day, shall be deemed to have vacated that office on the appointed day, and notwithstanding anything contained in this Act or in any other law for the time being in force or in any agreement or contract, such person shall not be entitled to any compensation for the loss of office or for the premature termination of any agreement or contract relating to his employment, except such pension, compensation or other benefit as the corresponding new bank, the Hyderabad Bank or the Saurashtra Bank, as the case may be, may with the approval of the State Bank, grant to him, having regard to what he would have received if this Act had not been passed and if his employment had ceased on the appointed day in the ordinary course:

Provided that nothing in this section shall be deemed to prevent any person who has so vacated his office in any of the said banks from being re-nominated or re-appointed to any office in a subsidiary bank in accordance with the provisions of this Act.

24. *Management.*—(1) The State Bank may, from time to time, give directions and instructions to a subsidiary bank in regard to any of its affairs and business, and that

bank shall be bound to comply with the directions and instructions so given.

(2) Subject to any such directions and instructions, the general superintendence and conduct of the affairs and business of a subsidiary bank shall, as from the appointed day, vest in a Board of Directors who may, with the assistance of the general manager, exercise all powers and do all such acts and things as may be exercised or done by that bank.

(3) The Board of Directors of a subsidiary bank shall, in discharging its functions under this Act, act on business principles, regard being had to public interest.

25. *Composition of the Board of Directors.*—(1) Subject to the provisions of sub-section (2), the Board of Directors of a subsidiary bank shall consist of the following:—

- (a) the chairman for the time being of the State Bank, *ex officio*;
- (b) an officer of the Reserve Bank, to be nominated by that bank;
- (c) not more than five directors to be nominated by the State Bank of whom not more than three shall be officers of that bank;
- (d) two directors to be elected in the prescribed manner by the shareholders, other than the State Bank;

Provided that if the total amount of the holdings of all such shareholders registered in the books of the subsidiary bank three months before the date fixed for election is below five per cent of the total issued capital, or if there are no shareholders other than the State Bank registered on the books of the subsidiary bank, the directors to be elected by the shareholders shall be nominated by the State Bank and such directors shall, for the purposes of this Act, be deemed to be directors elected under this clause;

- (e) a director, if any, to be nominated by the Central Government in consultation with the State Bank.

(2) Notwithstanding anything contained in clause (d) of sub-section (1), on the first constitution of the Board of Directors, the directors referred to in the said clause shall be appointed by the State Bank and the directors so appointed shall, for the purposes of this Act, be deemed to have been elected within the meaning of the said clause.

(3) If, for any reason, a director of a subsidiary bank nominated under clause (b) of sub-section (1) is unable to exercise his functions or to discharge his duties as such director, the Reserve Bank may nominate any of its officers to exercise all the functions and to discharge all the duties of such director whenever he is so unable to exercise his functions or discharge his duties, and the officer so nominated shall for all purposes of this Act be deemed to be a director of the subsidiary bank.

(4) An officer of the Reserve Bank or the State Bank may be nominated as a director of a subsidiary bank by virtue of his office.

(5) The directors nominated under sub-section (2) shall retire at the expiry of one year after the appointed day.

(6) Any nomination or appointment of a director made by the State Bank under this Act shall, except in so far as it relates to an officer of that bank, be in consultation with the Reserve Bank.

26. *Term of office of directors.*—(1) A director of a subsidiary bank, if nominated under clause (b) of sub-

section (1) of section 25 or if an officer of the State Bank and nominated under clause (c) or if an officer of the Central Government and nominated under clause (e) of that sub-section, shall hold office during the pleasure of the authority nominating him.

(2) Subject to the provisions contained in section 25, a director nominated under clause (c) of sub-section (1) of that section and not being an officer of the State Bank, a director elected under clause (d) and a director not being an officer of the Central Government, nominated under clause (e), of that sub-section, shall hold office for three years and thereafter until his successor is duly nominated or elected, as the case may be.

(3) A director of a subsidiary bank vacating his office shall be eligible for re-nomination or re-election, as the case may be.

27. Disqualification for directorship.—(1) A person shall be disqualified to be a director of a subsidiary bank, if—

- (a) he holds the office of director, provisional director, promoter, agent, or manager of any banking company or a banking company for the formation of which a prospectus has been issued; or
- (b) he is a salaried officer of Government; or
- (c) he has been removed or dismissed from the service of Government or a local authority or a corporation or a company in which not less than fifty-one per cent of the paid-up share capital is held by Government; or
- (d) he holds any office of profit under the subsidiary bank; or
- (e) he is or at any time has been, adjudicated an insolvent or has suspended payment of his debts or has compounded with his creditors; or
- (f) he is of unsound mind and stands so declared by a competent court; or
- (g) he is, or has been, convicted of any offence which, in the opinion of the Central Government, involves moral turpitude; or
- (h) in the case of an elected director, he is not registered as a holder of un-encumbered shares in the subsidiary bank of a nominal value of at least one thousand rupees:

Provided that the disqualification mentioned in clause (b) shall not apply to an officer of the Central Government nominated as a director under clause (e) of sub-section (1) of section 25:

Provided further that in the case of a director deemed to have been elected on the first constitution of the Board of Directors, the disqualification mentioned in clause (h) shall not operate for a period of six months from his becoming such director.

(2) No two persons who are partners of the same firm or are directors of the same private company or one of whom is an agent of the other or holds a power of attorney from a firm of which the other is a partner may be director of a subsidiary bank at the same time.

(3) The nomination or election, as a director of any person who is a member of either House of Parliament or the Legislature of a state shall be void unless within two months of the date of nomination or election as such director, he ceases to be a member of Parliament or the Legislature of the State, and if any director is elected or nominated as a member of Parliament or the Legislature of a State, he shall cease to be a director as from the date of such election or nomination, as the case may be.

(4) Nothing contained in clause (d) of sub-section (1) shall be deemed to preclude any person from being a

director of a subsidiary bank by reason only of his being a legal or technical adviser of that bank.

(5) In this section,—

- (a) "banking company" has the same meaning as in the Banking Companies Act, 1949 (10 of 1949);
- (b) "manager" means the chief executive officer, by whatever name called, of a banking company;
- (c) "private company" has the same meaning as in the Companies Act, 1956 (1 of 1956).

28. Vacation of office of directors.—If a director of a subsidiary bank—

- (a) is, or has become, subject to any of the disqualifications mentioned in section 27; or
- (b) resigns his office by giving notice in writing under his hand, in the case of a nominated director to the State Bank and in the case of an elected director to the Board of Directors of the subsidiary bank, and his resignation is accepted; or
- (c) is absent without leave of the Board of Directors for more than three consecutive meetings thereof;

his seat on the Board of Directors shall thereupon become vacant:

Provided that nothing in clause (b) or clause (c) shall apply to a director referred to in clause (b) of sub-section (1) of section 25 or to a director, being an officer of the State Bank, nominated under clause (c) or to a director, being an officer of the Central Government nominated under clause (e) of that sub-section.

29. General Manager.—(1) The State Bank shall, after consulting the Board of Directors of a subsidiary bank, and with the approval of the Reserve Bank, appoint a general manager for that subsidiary bank:

Provided that in the case of the first appointment of the general manager no such consultation with the Board of Directors of the subsidiary bank shall be necessary.

(2) Subject to the general control of the Board of Directors, the day to day administration and management of the affairs of a subsidiary bank shall vest in the general manager, and the general manager shall exercise such other powers and perform such other duties as may be delegated to him by the Board of Directors.

(3) The general manager of a subsidiary bank—

- (a) shall devote his whole time to the affairs of that bank:

Provided that the general manager of the subsidiary bank may, with the approval of the State Bank and the Reserve Bank, be a director of any other institution;

- (b) shall hold office for such term not exceeding four years and subject to such conditions as the State Bank may, with the approval of the Reserve Bank, specify at the time of his appointment;
- (c) shall receive such salary and allowances as may be determined by the State Bank with the approval of the Reserve Bank.

(4) The general manager vacating his office shall be eligible for re-appointment.

(5) The State Bank may, with the approval of the Reserve Bank, for any sufficient reason, remove from office the general manager of a subsidiary bank:

Provided that no such general manager shall be removed from office unless he has been given an opportunity of showing cause against such removal.

30. Remuneration of directors.—A director of a subsidiary bank shall be paid for attending the meetings of the Board of Directors or of any of its committees and for attending to any other business of the subsidiary bank such fees and allowances as may be prescribed:

Provided that no fees shall be payable to the chairman of the State Bank or any other director who is a whole-time officer of the Central Government or the Reserve Bank or the State Bank.

31. Removal from office of director.—(1) The State Bank may, with the approval of the Reserve Bank, for any sufficient reason, remove from office a director nominated under clause (c) of sub-section (1) of section 25 and not being an officer of the State Bank.

(2) The Central Government may, in consultation with the State Bank, for any sufficient reason, remove from office a director nominated under clause (e) of sub-section (1) of section 25 and not being an officer of the Central Government.

(3) Any director elected under clause (d) of sub-section (1) of section 25, may be removed from office—

(a) by the State Bank, with the approval of the Reserve Bank, if at the time of the removal there are no shareholders other than the State Bank registered in the books of the subsidiary bank concerned;

(b) by a resolution passed by a majority of the votes of such shareholders holding in the aggregate not less than one-half of the share capital held by all such shareholders:

Provided that if the total amount of the holdings of all shareholders, other than the State Bank, registered in the books of the subsidiary bank, on the date of the resolution, is below five per cent of the total issued capital, the resolution shall not have effect unless confirmed by the State Bank.

(4) No director shall be removed from office under sub-section (1) or sub-section (2) unless he has been given an opportunity of showing cause against such removal.

32. Appointment of another person for discharging the duties of general manager during his absence.—If the general manager of a subsidiary bank is rendered incapable of discharging his duties by reason of infirmity or otherwise or is absent on leave or otherwise in circumstances not involving the vacation of his office, the State Bank may appoint another person to officiate for the general manager until the date on which the general manager resumes duty.

33. Casual vacancies among directors.—(1) Where any vacancy occurs before the expiry of the term of office of a director of a subsidiary bank, the vacancy shall be filled—

(a) in the case of a director nominated under clause (c) of sub-section (1) of section 25, not being an officer of the State Bank, by nomination by the State Bank;

(b) in the case of a director elected under clause (d) of sub-section (1) of section 25, by election or where the proviso to that clause is applicable, by nomination by the State Bank:

Provided that where the duration of the vacancy in the office of an elected director is likely to be less than six months, the vacancy may be filled by the remaining directors by co-opting a person from amongst the shareholders entitled to elect a director under clause (d) of sub-section (1) of section 25 who is not disqualified under section 27;

(c) in the case of a director nominated under clause (e) of sub-section (1) of section 25, not being an officer of the Central Government, by nomination by that Government in consultation with the State Bank.

(2) A person nominated or elected or co-opted, as the case may be, under this section shall hold office for the un-expired portion of the term of his predecessor.

34. Meetings of the Board of Directors.—(1) The Board of Directors of a subsidiary bank, shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(2) The chairman of the State Bank shall preside at every meeting of the Board of Directors of a subsidiary bank and, in his absence such one of the directors as may generally or in relation to any particular meeting be authorised by the chairman in this behalf shall preside; and in the absence of the chairman and also failing such authorisation, the directors of the subsidiary bank present at the meeting shall elect one from among themselves to preside at the meeting.

Explanation.—For the purposes of this sub-section, “absence from a meeting” means non-attendance for any reason whatsoever at the meeting or any part of the meeting during which any business is transacted.

(3) All questions at a meeting of the Board of Directors of a subsidiary bank shall be decided by a majority of the votes of the directors present, and in case of equality of votes, the person presiding at the meeting shall have a second or casting vote.

(4) Where any of the directors specified in clauses (a) and (b) of sub-section (1) of section 25 or any of the directors, being an officer of the State Bank specified in clause (c) of that sub-section is unable to attend any meeting of the Board of Directors of a subsidiary bank, and the State Bank or any other such director as may be present at the meeting considers that the State Bank would not be adequately or effectively represented at such meeting by reason of the absence of any such director, the State Bank or the director present may give notice in writing to that subsidiary bank—

(i) that the meeting should be adjourned to such date as may be indicated in the notice; or

(ii) that any matter, action, step or proceeding proposed to be considered, taken or carried out at that meeting, should not be so considered, taken or carried out; or

(iii) that no decision should be taken at that meeting on any such matter, action, step or proceeding; and that subsidiary bank and its Board of Directors shall be bound to comply with such notice and act accordingly.

(5) A director of a subsidiary bank who is directly or indirectly concerned or interested in any contract, loan, arrangement or proposal, entered into or proposed to be entered into or made by or on behalf of the subsidiary bank shall, at the earliest possible opportunity, disclose the nature of his interest to the Board of Directors of that bank; and any such director shall not be present at any meeting of the Board of Directors when any such contract, loan, arrangement or proposal is discussed, unless his presence is required by the other directors for the purpose of eliciting information and where any director is so required to be present, he shall not vote on any such contract, arrangement or proposal:

Provided that nothing contained in this sub-section shall apply to such director by reason only of his being a shareholder (other than a director) holding not more than two per cent of the paid-up capital in any public company as defined in the Companies Act, 1956 (1 of 1956), with which the subsidiary bank has entered into or proposes to enter into a contract or other arrangement.

(6) A copy of the minutes of every meeting of the Board of Directors of a subsidiary bank, together with copies of

all connected papers, shall be forwarded to the State Bank and the Reserve Bank as soon as possible.

35. Executive committee and other committees.—(1) There shall be an executive committee in respect of a subsidiary bank consisting of such directors as may be prescribed:

Provided that if any such director being an officer of the State Bank and nominated by that Bank under clause (c) of sub-section (1) of section 25, is for any reason unable to exercise his functions or to discharge his duties in relation to the executive committee, the State Bank may depute any of its officers to exercise all the functions and to discharge all the duties of such director in relation to the executive committee whenever such director is so unable to exercise his functions or discharge his duties; and the officer so deputed shall, for all purposes of this Act, in so far as it applies to the executive committee, be deemed to be a director of the subsidiary bank.

(2) Subject to any regulations made under this Act, the executive committee may deal with any matter within the competence of the Board of Directors.

(3) A copy of the minutes of every meeting of the executive committee of a subsidiary bank shall be forwarded to the State Bank and be laid before the Board of Directors of the subsidiary bank as soon as possible after the meeting.

(4) Without prejudice to the powers of the executive committee, and subject to any regulations made under this Act, the Board of Directors of a subsidiary bank may constitute such and so many other committees, whether consisting wholly of the directors or wholly of other persons, or partly of the directors and partly of other persons, as it deems fit, to exercise such powers and perform such duties as may, subject to such conditions, if any, as the Board of Directors may impose, be delegated, to them by the Board of Directors.

CHAPTER VI

BUSINESS OF SUBSIDIARY BANKS

36. Subsidiary bank to act as agent of the State Bank.—

(1) A subsidiary bank shall, if so required by the State Bank, act as agent of the State Bank at any place in India for—

- (a) paying, receiving, collecting and remitting money, bullion and securities on behalf of any Government in India; and
- (b) undertaking and transacting any other business which the Reserve Bank may, from time to time, entrust to the State Bank.

(2) The terms and conditions on which any such agency business shall be carried on by the subsidiary bank on behalf of the State Bank shall be such as may be determined by the State Bank, after consultation with the subsidiary bank and with the approval of the Reserve Bank.

(3) Until an arrangement is made by the State Bank with the Hyderabad Bank or the State Bank of Mysore, as the case may be, under this section, or until the expiry of a period of six months from the appointed day (which period may from time to time be extended by the Reserve Bank) whichever is earlier, the Hyderabad Bank and the State Bank of Mysore may respectively act as agent of the Reserve Bank, at the same places where and for the same purposes for which, and on the same terms and conditions on which, the Hyderabad Bank or the Bank of Mysore Limited, as the case may be, was acting as agent of the Reserve Bank immediately before the appointed day or with the previous approval of the Central Government at any other place or for any purpose.

(4) Until an arrangement is made by the State Bank with the State Bank of Bikaner, the State Bank of Jaipur, the Saurashtra Bank or the State Bank of Travancore, as the case may be, under this section or until the expiry of a period of six months from the appointed day (which period may from time to time be extended by the Reserve Bank) whichever is earlier, the State Bank of Bikaner, the State Bank of Jaipur, the Saurashtra Bank or the State Bank of Travancore may act as agent of the State Government of Rajasthan or the State Government of Bombay or the State Government of Kerala as the case may be, at the same places where and for the same purposes for which and on the same terms and conditions on which, the Bank of Bikaner, Limited, or the Bank of Jaipur, Limited, or the Saurashtra Bank, or the Travancore Bank, Limited, as the case may be, was acting as agent for the State Government immediately before the appointed day or with the previous approval of the Central Government at any other place or for any purpose.

37. Other business which a subsidiary bank may transact.—(1) Subject to the other provisions contained in this Act, a subsidiary bank may carry on and transact the business of banking as defined in clause (b) of sub-section (1) of section 5 of the Banking Companies Act, 1949 (10 of 1949); and may engage in such one or more of the other forms of business, as are specified in sub-section (1) of section 6 of that Act.

(2) The Central Government may, after consultation with the Reserve Bank and the State Bank, by order in writing—

- (a) authorise a subsidiary bank to do such other forms of business as the Central Government may consider necessary or expedient;
- (b) direct that any form of business as is mentioned in the order, shall be carried on subject to such restrictions, conditions and safeguards as may be specified therein; or
- (c) prohibit a subsidiary bank from carrying on or transacting any form of business which, but for this clause, it is lawful for the subsidiary bank to engage in.

(3) Save as otherwise provided in sub-section (2), a subsidiary bank shall not engage in any form of business other than that referred to in sub-section (1).

38. Acquisition of business of other banks.—(1) A subsidiary bank may, with the approval of the State Bank, and shall, if the Reserve Bank, in consultation with the State Bank, so directs, enter into negotiations for acquiring the business, including the assets and liabilities of any other banking institution.

(2) The terms and conditions relating to such acquisition, if agreed upon by the Board of Directors of the subsidiary bank concerned and the directorate or management of the banking institution concerned and approved by the Reserve Bank, shall be submitted to the Central Government for its sanction and that Government may by order in writing (hereafter in this section referred to as the order of sanction) accord its sanction thereto.

(3) Notwithstanding anything contained in this Act or any other law for the time being in force or any instrument regulating the constitution of the banking institution concerned, the terms and conditions as sanctioned by the Central Government shall come into effect on the date specified by the Central Government in this behalf in the order of sanction and be binding upon the subsidiary bank and the banking institution concerned as well as upon the shareholders (or, as the case may be, proprietors) and creditors of that banking institution.

(4) If for any reason the terms and conditions cannot come into effect on the date specified in the order of sanction, the Central Government may fix another suitable date for that purpose.

(5) On the date on which the terms and conditions as aforesaid come into effect, the business and the assets and liabilities of the banking institution concerned as covered by the acquisition shall, by virtue, and in accordance with the provisions, of the order of sanction stand transferred to, and become respectively the business and the assets and liabilities of, the subsidiary bank concerned.

(6) The consideration for the acquisition of the business and the assets and liabilities of any banking institution under this section may, if so agreed upon, be paid either in cash or by allotment of shares in the capital of the subsidiary bank concerned or partly in cash and partly by allotment of shares, and the subsidiary bank may, for the purpose of any such allotment, increase, subject to the other provisions contained in this Act relating to the increase of capital, the capital of the subsidiary bank by the issue of such number of shares as may be determined by the subsidiary bank.

(7) Any business acquired under this section shall thereafter be carried on by the subsidiary bank in accordance with the provisions of this Act subject to such exemptions or modifications as the Central Government may, by notification in the Official Gazette, make in this behalf in consultation with the Reserve Bank:

Provided that no such exemption or modification shall be made so as to have effect for a period of more than seven years from the date of acquisition.

(8) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law or in any agreement for the time being in force, on the acquisition of the business and the assets and liabilities of any banking institution under this section, no officer or other employee of that banking institution shall be entitled to any compensation to which he may be entitled under that Act or that other law or that agreement, and no claim in respect of such compensation shall be entertained by any court, tribunal or other authority if on his having accepted in writing an offer of employment by the subsidiary bank concerned on the terms and conditions proposed by it he has been employed in accordance with such terms and conditions.

(9) The Central Government may, if it considers necessary or expedient in the case of any banking institution in relation to which an order of sanction has been made under this section, appoint, whether before or after the coming into effect of the terms and conditions relating to the business and the assets and liabilities of that banking institution, a suitable person to take over the management of that banking institution for the purposes of winding up its affairs and distributing its assets, and the expenditure incurred in connection with such management (including the remuneration of the person so appointed and his staff, if any) shall be paid out of the assets of the banking institution or by the subsidiary bank concerned as the Central Government may direct.

(10) Simultaneously with the appointment of a suitable person under sub-section (9) or immediately thereafter, the Central Government shall issue directions to be followed by that person in the management of that banking institution for the purposes aforesaid and thereupon—

(a) the provisions of the Companies Act, 1956 (1 of 1956), or the Banking Companies Act, 1949 (10 of 1949), or any other law for the time being in force or any instrument having effect by

virtue of any such Act or law, in so far as they are inconsistent with such directions, shall cease to apply to, or in relation to, that banking institution;

(b) all persons in charge of the management, including any person holding office as manager or director, of the banking institution, immediately before the issue of such directions, shall be deemed to have vacated their offices as such; and

(c) the person appointed to take over the management of the banking institution shall, in accordance with those directions, take all such steps as may be necessary to facilitate the winding up of its affairs and the distribution of its assets.

(11) The Central Government, when satisfied that nothing further remains to be done in order to wind up the affairs of the banking institution concerned, may, by order in writing, direct that as from such date as may be specified therein, the banking institution shall stand dissolved and thereupon any such direction shall have effect notwithstanding anything to the contrary contained in any other law.

(12) No action under this section shall be questioned on the ground merely of any defect in the constitution of any banking institution in relation to which such action has been taken or in the constitution of its Board of Directors or in the appointment of any person entrusted with the management of its affairs.

(13) The provisions of this section shall apply in relation to the acquisition by one subsidiary bank of the business, including the assets and liabilities, of another subsidiary bank as they apply in relation to the acquisition by a subsidiary bank of the business, including the assets and liabilities, of any other banking institution.

(14) In this section, "banking institution" includes any individual or any association of individuals (whether incorporated or not, or whether a department of Government or a separate institution), carrying on the business of banking.

CHAPTER VII

ACCOUNTS AND AUDIT

39. *Closing of annual accounts.*—A subsidiary bank shall cause its books to be closed and balanced on the thirty-first day of December in each year.

40. *Disposal of profits.*—(1) After making provision for bad and doubtful debts, depreciation in assets, equalisation of dividends, contribution to staff and superannuation funds and for all other matters for which provision is necessary by or under this Act or which are usually provided for by banking companies, a subsidiary bank may, out of its net profits, declare a dividend.

(2) The rate of dividend shall be determined by the Board of Directors of the subsidiary bank concerned.

(3) Nothing in this section shall be deemed to preclude the payment of interim dividends in such manner and to such extent as may be prescribed.

41. *Audit.*—(1) Subject to the provisions of section 42, the accounts of a subsidiary bank shall be audited by an auditor duly qualified to act as an auditor of companies under sub-section (1) of section 226 of the Companies Act, 1956 (1 of 1956), who shall be appointed by the State Bank, with the approval of the Reserve Bank.

(2) The auditor shall receive such remuneration as the State Bank may fix.

(3) No director or officer of a subsidiary bank shall be eligible to be its auditor during his continuance in office as such director or officer.

(4) The auditor shall be supplied with a copy of the annual balance sheet and profit and loss account, and a list of all books kept by the subsidiary bank, and it shall be the duty of the auditor to examine the balance sheet and profit and loss account with the accounts and vouchers relating thereto, and in the performance of his duties, the auditor—

- (a) shall have, at all reasonable times, access to the books, accounts and other documents of that subsidiary bank;
- (b) may, at the expense of that subsidiary bank, employ accountants and other persons to assist him in investigating such accounts; and
- (c) may, in relation to such accounts, examine any director or any officer of that subsidiary bank.

(5) The auditor shall hold office for such term not exceeding one year as the State Bank may fix at the time of his appointment; and if any vacancy arises before the expiry of the term of an auditor, the vacancy may be filled by the State Bank, with the approval of the Reserve Bank.

(6) The auditor shall on relinquishing office be eligible for re-appointment.

(7) The auditor shall make a report to the State Bank upon the annual balance sheet and accounts of the subsidiary bank, and, in every such report, he shall state—

- (a) whether, in his opinion, the balance sheet is a full and fair balance sheet containing all the necessary particulars and is properly drawn up so as to exhibit a true and correct view of the affairs of that subsidiary bank, and in case he has called for any explanation or information, whether it has been given and whether it is satisfactory;
- (b) whether or not the transactions of that subsidiary bank which have come to his notice have been within the competence of the bank;
- (c) whether or not the returns received from the offices and branches of that subsidiary bank have been found adequate for the purpose of his audit;
- (d) whether the profit and loss account shows a true balance of profit or loss for the period covered by such account; and
- (e) any other matter which he considers should be brought to the notice of the State Bank.

(8) The auditor shall forward a copy of the audit report to the subsidiary bank and to the Central Government.

(9) Without prejudice to the foregoing provisions, the Central Government may, at any time, appoint such number of auditors as it thinks fit to examine and report on the accounts of a subsidiary bank, and the auditors so appointed shall have all the rights, privileges and authority in relation to the audit of the accounts of the subsidiary bank which an auditor appointed by the State Bank has under this section.

42. Temporary provision regarding existing auditors.—If, on the appointed day, any appointment of an auditor made by, or in respect of, an existing bank, the Hyderabad Bank or the Saurashtra Bank, as the case may be, is subsisting, the State Bank may, on or after such day, either confirm the appointment in accordance with the provisions of this Act, subject to such modifications of the terms and conditions of the appointment, as it may deem necessary, or terminate the appointments; and may, if it so terminates the appointment, fix such remuneration as appears to it to be reasonable having regard to the work already done, functions discharged, or duties performed by the auditor concerned.

43. Returns to be furnished by a subsidiary bank.—(1) A subsidiary bank shall furnish to the State Bank and the Reserve Bank—

- (a) within three months from the date on which its accounts are closed and balanced, its balance sheet, together with the profit and loss account and the auditor's report, and a report by the Board of Directors on the working of the subsidiary bank during the period covered by the accounts; and
- (b) any other information relating to the affairs and business of the subsidiary bank which the State Bank or the Reserve Bank may require.

(2) The balance sheet and the profit and loss account of a subsidiary bank shall be signed by the general manager and a majority of the directors of the subsidiary bank.

44. General meetings.—(1) A general meeting (hereinafter referred to as an annual general meeting) of a subsidiary bank shall be held annually before the end of March at the place where the head office of the subsidiary bank is situate, and any other general meeting may be convened by the Board of Directors at any time.

(2) The shareholders present at an annual general meeting shall be entitled to discuss the balance sheet and profit and loss account of the bank concerned, made up to the previous 31st day of December, the report of the Board of Directors on the working of that bank for the period covered by the accounts and the auditors' report on the balance sheet and accounts.

(3) Nothing contained in this section relating to an annual general meeting shall apply in relation to a subsidiary bank if, as on the previous 31st day of December, all the shares in the issued capital of that bank are held by the State Bank.

CHAPTER VIII

MISCELLANEOUS

45. Power to issue directions for removing difficulties.—For the purpose of facilitating the full and effective transfer of the undertaking of an existing bank in accordance with the provisions of this Act, or in order to remove any difficulty which in the opinion of the Central Government has arisen or is likely to arise in connection with such transfer, the Central Government may, in consultation with the Reserve Bank, give such directions to any existing bank or the State Bank as appear to it to be necessary and the said bank or the State Bank, as the case may be, shall comply with such directions.

46. Observers for existing Banks and the Saurashtra Bank.—(1) The State Bank may, in relation to any existing bank or the Saurashtra Bank, at any time before the appointed day,—

- (a) depute one or more persons to watch the proceedings at any meeting of the Board of Directors, any committee or other body of the bank; require the bank to give an opportunity to the person or persons so deputed to be heard at such meetings and also require such person or persons to send a report of such proceedings to the State Bank;
- (b) require the Board of Directors, any committee or other body of the bank to give in writing to any person specified by the State Bank in this behalf, at his usual address, all notices of, and other communications relating to, any meeting of the Board, committee or other body, as the case may be;

(c) appoint one or more persons to observe the manner in which the affairs of the bank or of its offices or branches are being conducted and make a report thereon; and

(d) require the bank to furnish the State Bank, within such time as may be specified by the State Bank, with any statement or information relating to the business or affairs of the bank, including copies of the proceedings of any meeting of the Board of Directors, any committee or other body, of the bank.

(2) If a person deputed by the State Bank to watch the proceedings of any meeting of the Board of Directors, any committee or other body, as the case may be, gives notice in writing to the bank that such person considers that any action, step or proceeding proposed to be taken or carried out by the bank will be detrimental to the State Bank or to the bank itself, such action, step or proceeding shall not be taken or carried out by the bank unless and until the State Bank approves in writing of such action, step or proceeding.

Explanation.—For the purposes of this section, “Board of Directors” in relation to the Saurashtra Bank, means its Board of Management.

47. Inspection.—(1) Without prejudice to the other provisions contained in this Act, the State Bank may, at any time, cause an inspection to be made by one or more of its officers of any existing bank, a new bank, the Hyderabad Bank or the Saurashtra Bank.

(2) It shall be the duty of every person who is, or has, at any time, been a director, officer or other employee of a bank which is inspected under sub-section (1), to produce to any officer making the inspection, all such balances, books, accounts, securities and other documents in his custody or power and to furnish the said officer with any statements and information relating to the affairs of the bank as the said officer may require of him within such time as the said officer may specify.

(3) If any person—

(a) fails, within the stipulated time, to produce any balance, book, account, security or other document or to furnish any statement or information which under sub-section (2) it is his duty to produce or furnish, or to answer any question relating to the business of the bank under inspection which is asked by an officer making the inspection, or

(b) in any document or information required or furnished or while answering any question put to him, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

48. Cost of development programme.—(1) A subsidiary bank may accept any subsidies offered by the State Bank to meet—

(a) the cost of the whole or any part of any specific programme of development undertaken by that subsidiary bank with the approval of the State Bank; and

(b) such losses or expenditure as may be approved by the State Bank, with the consent of the Reserve Bank.

(2) For the purposes of the Indian Income-tax Act, 1922 (11 of 1922), any subsidy received by a subsidiary bank under sub-section (1) shall not be treated as income, profits or gains of the subsidiary bank.

49. Special provision regarding existing officers and employees.—(1) Notwithstanding anything contained in

any of the other provisions of this Act, or in any other law or in any contract of service or other document, no appointment made or promotion, increment in salary, pension or allowance or any other benefit granted to any person by an existing bank or the Saurashtra Bank after the 10th day of February, 1958, and before the appointed day, which would not ordinarily have been made or granted or which would not ordinarily have been admissible under the rules or authorisations of the said banks or of any provident, pension or other fund in force before the 10th day of February, 1958, shall have effect or be payable or claimable from the subsidiary bank concerned, or from any provident, pension or other fund, or from any authority administering any such fund, unless the State Bank has, with the approval of the Reserve Bank, by a general or special order, confirmed the appointment, promotion or increment or has directed the grant of the pension, allowance or other benefit, as the case may be.

(2) Where any officer or other employee of an existing bank or of the Saurashtra Bank has received any amount by reason of such appointment, promotion or increment or any such pension, allowance or other benefit as is referred to in sub-section (1), which has not been confirmed or sanctioned by the State Bank under that sub-section, such officer or other employee shall be bound to refund such amount to the subsidiary bank concerned, and that bank shall be entitled to take all such steps as may be necessary for recovering such amount.

(3) Where any managing director, general manager or manager, deputy managing director or deputy general manager or other employee of an existing bank or the Saurashtra Bank has, after the 10th day of February, 1958, and before the appointed day, been paid any sum by way of compensation or gratuity, the subsidiary bank concerned shall be entitled to claim a refund of any sum so paid if the payment is not confirmed by the State Bank by a general or special order.

(4) Nothing in this section shall apply to, or in relation to, any officer or other employee of the Bank of Patiala, who does not become an officer or other employee of the State Bank of Patiala under the provisions of section 11.

50. Staff of a subsidiary bank.—(1) A subsidiary bank may, subject to such limitations and conditions as may be prescribed, appoint such number of officers, advisers and employees as it considers necessary or desirable, for the efficient performance of its functions and on such terms and conditions as it may deem fit.

(2) For the removal of doubts, it is hereby declared that the officers, advisers and employees of a subsidiary bank in whatever capacity engaged, shall not be deemed to be officers, advisers or employees of the State Bank for any purpose, unless otherwise provided in the contract or agreement of service of any such officer, adviser or employee.

51. Establishment of pension and superannuation funds by subsidiary banks.—Notwithstanding anything to the contrary contained in any other law for the time being in force, a subsidiary bank may establish and maintain superannuation, pension, provident or other funds for the benefit of its officers or employees or the dependants of such officers or employees or for the purposes of the subsidiary bank, and grant superannuation allowances, annuities and pensions payable out of any such fund.

52. Obligation as to fidelity and secrecy.—(1) A subsidiary bank shall observe, except as otherwise required by law, the practices and usages customary among bankers, and in particular, it shall not divulge any information relating to, or to the affairs of, its constituents except in circumstances in which it is, in accordance with the law or practice and usage customary among bankers, necessary or appropriate for that bank to divulge such information.

(2) Every director, auditor, adviser, officer or other employee of a subsidiary bank shall, before entering upon his duties, make a declaration of fidelity and secrecy as in the form set out in the Second Schedule:

Provided that any declaration made under sub-section (2) of section 35 of the State Bank of Hyderabad Act shall be deemed to be a declaration made to the Hyderabad Bank under this sub-section.

53. *Indemnity of directors.*—(1) Every director of a subsidiary bank shall be indemnified by that bank against all losses and expenses incurred by him in, or in relation to, the discharge of his duties except such as are caused by his own wilful act or default.

(2) A director of a subsidiary bank shall not be responsible for any loss or expense caused to the bank by the insufficiency or deficiency of the value of, or title to, any property or security acquired or taken on behalf of the bank or by the insolvency or wrongful act of any customer or debtor or by anything done in, or in relation to, the execution of the duties of his office or otherwise than for his wilful act or default.

54. *Defects in appointment or constitution not to invalidate acts or proceedings.*—(1) No act or proceeding of the Board of Directors or a subsidiary bank shall be questioned on the ground merely of the existence of any vacancy in or defect in the constitution of, the Board

(2) All acts done by any person acting in good faith as a director of a subsidiary bank shall, notwithstanding that he was disqualified to be a director or that there was any other defect in his appointment, be deemed to be valid.

55. *Companies Act, 1956 and Banking Companies Act, 1949, not to apply to certain existing banks.*—Subject to the provisions of this Act and unless the Central Government, by notification in the Official Gazette, otherwise directs, on and from the appointed day, the provisions of the Companies Act, 1956 (1 of 1956), and the Banking Companies Act, 1949 (10 of 1949) shall not apply to an existing bank, in so far as the said provisions impose any obligation on, or require anything to be done by, any such bank.

56. *Continuance of special provisions respecting recovery of loans and advances made by the Bank of Patiala and the State Bank of Saurashtra.*—The State Bank of Patiala and the Saurashtra Bank shall be entitled to recover in the same manner as an arrear of land revenue any moneys due in respect of loans or advances made before the appointed day by the Bank of Patiala or the Saurashtra Bank, as the case may be, and the provisions of any law, relating to such recovery as were applicable to that bank before the appointed day shall continue to apply to the State Bank of Patiala or the Saurashtra Bank, as the case may be, in respect of such recovery after the appointed day.

57. *Bar to liquidation of a subsidiary bank.*—No provision of law relating to the winding up of companies shall apply to a subsidiary bank nor shall it be placed in liquidation, save as provided in this Act or by order of the Central Government and in such manner as the Central Government may direct.

58. *Dissolution of existing banks.*—Notwithstanding anything contained in this Act or in any other law for the time being in force or in any contract or other instrument, an existing bank shall, on such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, stand dissolved.

59. *Reference in other laws to existing banks.*—On and from the appointed day, any reference to an existing bank in any law, other than this Act, or in any contract or other instrument, shall, except as otherwise provided in any general or special order made by the Central

Government, be construed as a reference to the corresponding new bank.

60. *Exercise of powers and functions on behalf of the Reserve Bank.*—Any powers, duties or functions conferred, imposed or entrusted by this Act on, or to, the Reserve Bank, shall be exercised or performed by the Governor of the Reserve Bank or, in his absence, by a Deputy Governor nominated under sub-section (3) of section 7 of the Reserve Bank of India Act, 1934 (2 of 1934), or by such officer or officers of the Reserve Bank in respect of such matters and subject to such conditions and limitations as the Governor of the Reserve Bank may specify.

61. *Protection of action taken under Act.*—(1) No suit or other legal proceeding shall lie against the Central Government, the Reserve Bank or the State Bank or any officer of the Central Government, the Reserve Bank or the State Bank for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act.

(2) No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred or any damage caused by reason of the operation of, or anything done in pursuance of, the provisions contained in sections 46 and 47.

62. *Power of Central Government to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the terms and conditions of service of the Chairman, members and staff of the Tribunal;
- (b) the manner of, and the procedure for, payment of compensation (including allotment of shares in lieu of compensation) under this Act, including the requirements subject to which the payment shall be made;
- (c) the determination of the persons to whom compensation shall be payable in all cases including cases where shares have been held by more than one person, or where they have been transferred before the appointed day, but the transfer has not been registered, or where the shareholder is dead;
- (d) the circumstances under which claims for payment of the said compensation from persons claiming through or under a shareholder may be entertained;
- (e) the requirements to be complied with before receipt of the said compensation by a shareholder, whose share certificate has been lost, destroyed, mutilated or stolen;
- (f) the requirements subject to which information regarding the payment of the said compensation may be granted or refused and the conditions subject to which such information may be given.

(3) All rules made under this section shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made, and shall be subject to such modifications as Parliament may make during a session in which they are so laid or the session immediately following.

63. *Power of the State Bank to make regulations.*—(1) The State Bank may, with the approval of the Reserve Bank, make in respect of a subsidiary bank regulations, not inconsistent with this Act and the rules made thereunder, to provide for all matters for which provision is

necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

- (a) the powers and duties of the general manager of the subsidiary bank;
- (b) the fees and allowances which may be paid to directors or others for attending any meetings of the Board of Directors or of its committees (including the executive committee) or other committees or for attending to any other work of the subsidiary bank;
- (c) the time and place at which, and the manner in which, the business of the Board of Directors of the subsidiary bank shall be transacted and the procedure to be followed at the meetings thereof;
- (d) the constitution of the executive committee of the subsidiary bank and the conditions and limitations subject to which the executive committee may exercise its powers and the procedure to be followed at the meetings thereof;
- (e) the formation of any other committees, whether of the Board of Directors of the subsidiary bank or otherwise, and the delegation of powers and functions of the Board to such committees and the conduct of business in such committees;
- (f) the nature of shares of the subsidiary bank, the manner in which, and the conditions subject to which, shares may be held and transferred and generally all matters relating to the rights and duties of shareholders;
- (g) the maintenance of share registers, and the particulars to be entered in such registers in addition to those specified in section 21, the inspection and closure of the registers and all other matters connected therewith;
- (h) the holding and conduct of elections under this Act and the final determination of doubts or disputes regarding the qualifications of candidates for election or regarding the validity of elections;
- (i) the manner in which general meetings shall be convened, the procedure to be followed thereat and the manner in which voting rights may be exercised;
- (j) the manner in which notices may be served on behalf of the subsidiary bank upon shareholders or other persons;
- (k) the payment of dividends, including interim dividends;
- (l) the delegation of powers and functions of the Board of Directors of the subsidiary bank to the general manager or directors or officers or other employees of that bank;
- (m) the conditions and limitations subject to which the subsidiary bank may appoint officers, advisers and other employees and fix their remuneration and other terms and conditions of service;
- (n) the duties and conduct of officers, advisers and other employees of the subsidiary bank;
- (o) the establishment and maintenance of superannuation, pension, provident or other funds for the benefit of the officers or employees of the subsidiary bank or of the dependants of such officers or employees or for the purposes of the subsidiary bank, and the granting of superannuation allowances, annuities and pensions payable out of any such fund;
- (p) the conduct and defence of legal proceedings by or against the subsidiary bank and the manner

- of signing pleadings;
- (q) the provision of a seal for the subsidiary bank and the manner and effect of its use;
- (r) the form and manner in which contracts binding on the subsidiary bank may be executed;
- (s) the conditions and requirements subject to which loans or advances may be made or bills may be discounted or purchased by the subsidiary bank;
- (t) the conditions subject to which loans or advances may be made by the subsidiary bank to its directors or officers or to the relatives of such directors or officers or to companies, firms or individuals with which or with whom such directors or officers or relatives are connected as partners, directors, managers, servants, shareholders or otherwise;
- (u) the persons or authorities who shall administer any pension, provident or other fund constituted for the benefit of the officers or employees of the subsidiary bank or their dependants or for the purposes of that bank;
- (v) the circumstances in which the specific approval of the State Bank shall be required to the grant of loans and advances or investment of funds by the subsidiary bank or to any contract, arrangement or proposal entered into or proposed to be entered into by the subsidiary bank;
- (w) the preparation and submission to the State Bank and the Reserve Bank of statements of programmes of activities and financial statements of the subsidiary bank and the periods for which, and the time within which, such statements and estimates are to be prepared and submitted;
- (x) the person or persons in the State Bank by whom any powers, duties or functions conferred, imposed or entrusted on or to the State Bank under this Act may be exercised or performed;
- (y) generally, for the efficient conduct of the affairs of the subsidiary bank.

(3) All regulations under this section, except the first regulations, shall be made in consultation with the Board of Directors of the subsidiary bank concerned.

64. Section 64 Repealed vide Act 52 of 1964.

65. *Saving*.—Nothing in this Act shall be deemed to affect the provisions of section 35 of the State Bank of India Act, 1955 (23 of 1955).

THE FIRST SCHEDULE

(See sections 13 and 14)

PRINCIPLES OF COMPENSATION

1. A.—The compensation to be given by the State Bank shall, in the case of the Hyderabad Bank, the Bank of Patiala or the Saurashtra Bank, be an amount equal to the value of the assets of that bank as on the day immediately before the appointed day, computed in accordance with the provisions of Part I of this paragraph *less* the total amount of liabilities thereof computed in accordance with the provisions of Part II of this paragraph.

B.—The total compensation to be given by the State Bank in respect of the transfer of the shares in the capital of the existing banks, other than the Bank of Patiala, to the persons (including any State Government) who, immediately before the appointed day, are registered as holders of shares in the books of each of these banks shall, in each case, be an amount equal to the value of the assets of that bank as on the day immediately preceding the appointed day in relation to the corresponding new bank, computed in accordance with the provisions of Part I of this paragraph *less* the total amount of liabilities thereof computed in accordance with the provisions of Part II of this paragraph.

PART I—Assets

For the purposes of this paragraph, assets means the total of the following:—

- (a) the amount of cash in hand and with the Reserve Bank and the State Bank (including foreign currency notes which shall be converted at the market rate of exchange);
- (b) the amount of balances with any other bank, not being the Reserve Bank or the State Bank, whether on deposit or current account, and money at call and short notice, balances held outside India being converted at the market rate of exchange;

Provided that any balances which are not realisable in full shall be deemed to be debts and valued accordingly;

- (c) the market value as on the appointed day of any securities, shares, debentures, bonds and other investments, held by the bank concerned;

Explanation.—For the purposes of this clause,—

- (i) securities of the Central and State Governments [other than the securities specified in sub-clauses (ii) and (iii) of this *Explanation*] maturing for redemption within five years from the appointed day shall be valued at the face value or the market value whichever is higher;
- (ii) securities of the Central Government, such as Post Office Certificates and Treasury Savings Deposit Certificates and any other securities or certificates issued or to be issued under the Small Savings Scheme of the Central Government, shall be valued at their face value or the encashable value as on the appointed day, whichever is higher;
- (iii) where the market value of any Government security such as the zamindari abolition bonds or other similar security in respect of which the principal is payable in instalments, is not ascertainable or is, for any reason, not considered as reflecting the fair value thereof or as otherwise appropriate, the security shall be valued at such an amount as is considered reasonable having regard to the instalments of principal and interest remaining to be paid, the period during which such instalments are payable, the yield of any security, issued by the Government to which the security pertains and having the same or approximately the same maturity, and other relevant factors;
- (iv) where the market value of any security, share, debenture, bond or other investment is not considered reasonable by reason of its having been affected by abnormal factors, the investment may be valued on the basis of its average market value over any reasonable period;
- (v) where the market value of any security, share, debenture, bond, or other investment is not ascertainable, only such value, if any, shall be taken into account as is considered reasonable having regard to the financial position of the issuing concern, the dividend paid by it during the preceding five years and other relevant factors;
- (d) the amount of advances (including loans, cash credits, overdrafts, bills purchased and discounted), and other debts, whether secured or unsecured, to the extent to which they are reasonably considered recoverable, having regard to the value of the security, if any, the operations on the account, the reported worth and respectability of the borrower, the prospects

- of realisation and other relevant considerations;
- (e) the market value of any land or buildings;
- (f) the total amount of the premia paid, in respect of all leasehold properties, reduced in the case of each such premium by an amount which bears to such premium the same proportion as the expired term of the lease in respect of which such premium shall have been paid bears to the total term of the lease;
- (g) the written down value as per books, or the realisable value, as may be considered reasonable, of all furniture, fixtures and fittings.
- (h) the market or realisable value, as may be appropriate, of other assets appearing on the books of the bank, no value being allowed for capitalised expenses, such as share selling commission, organisational expenses and brokerage, losses incurred and similar other items.

PART II—Liabilities

For the purposes of this paragraph “liabilities” means the total amount of all outside liabilities existing on the appointed day and all contingent liabilities which the subsidiary bank concerned may reasonably be expected to be required to meet out of its own resources on or after the appointed day.

COMPENSATION PAYABLE TO SHAREHOLDERS

2. Every shareholder of an existing bank other than the Bank of Patiala shall be given such amount as compensation as bears to the total compensation, in respect of each of the said banks calculated in accordance with the provisions of paragraph 1, the same proportion as the amount of the paid-up capital of the shares held by the shareholder bears to the total paid-up capital of that bank.

CERTAIN DIVIDENDS NOT TO BE TAKEN INTO ACCOUNT

3. No separate compensation shall be payable for any profits or any dividend in respect of any period immediately preceding the appointed day for which, in the ordinary course, profits would have been transferred or dividend declared after the appointed day.

THE SECOND SCHEDULE

(See section 52)

DECLARATION OF FIDELITY AND SECRECY

I,, do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as (director, auditor, adviser, officer or employee, as the case may be) of the State Bank of* and which properly relate to the office or position held by me in, or in relation to, the said bank.

I further declare that I will not communicate, or allow to be communicated, to any person not legally entitled thereto any information relating to the affairs of the State Bank of* or to the affairs of any person having any dealing with the said bank; nor will I allow any such person to inspect or have any access to any books or documents belonging to, or in the possession of, the State Bank of* and relating to the business of the said bank or to the business of any person having any dealing with the said bank.

*Here enter the name of the subsidiary bank concerned.

THE THIRD SCHEDULE
(Repealed vide Act 52 of 1964)